

**CALIFORNIA STATE WATER RESOURCES CONTROL BOARD
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DRAFT FACT SHEET

FOR

**DRAFT NPDES GENERAL PERMIT and WASTE DISCHARGE
REQUIREMENTS**

FOR

**STORM WATER DISCHARGES FROM SMALL MUNICIPAL SEPARATE
STORM SEWER SYSTEMS (ORDER)**

ORDER No. XXXX-XXXX-DWQ

This Fact Sheet describes the factual, legal, and methodological basis for the proposed General Permit, provides supporting documentation, and explains the rationale and assumptions used in deriving the limits and requirements.

I. BACKGROUND

History

A 1972 amendment to the federal Water Pollution Control Act (also referred to as the Clean Water Act) provides that the discharge of pollutants to waters of the United States from any point source is unlawful unless the discharge is in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. The 1987 amendments to the Clean Water Act added section 402(p), which established a framework for regulating storm water discharges under the NPDES Program. Subsequently, in 1990, the U.S. Environmental Protection Agency (U.S. EPA) promulgated regulations for permitting storm water discharges from industrial sites (including construction sites that disturb five acres or more) and from municipal separate storm sewer systems (MS4s) serving a population of 100,000 people or more. These regulations, known as the Phase I regulations, require operators of medium and large MS4s to obtain storm water permits. On December 8, 1999, U.S. EPA promulgated regulations, known as Phase II regulations, requiring permits for storm water discharges from Small MS4s and from construction sites disturbing between one and five acres of land. The Order accompanying this Fact Sheet regulates storm water discharges from Small MS4s.

A municipal separate storm sewer is a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) “owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity....” (ii) designed or used for collecting or conveying storm water; (iii) which is not a combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works (POTW). [See Title 40, Code of Federal Regulations (40 CFR) §122.26(b)(8).]

A Small MS4 is an MS4 that is not permitted under the municipal Phase I regulations. (40 CFR §122.26(b)(16)). Small MS4s include systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares, but do not include separate storm sewers in very discrete areas, such as individual buildings. (40 CFR §122.26(b)(16)(iii).) This permit refers to MS4s that operate throughout a community as “traditional MS4s” and MS4s that are similar to traditional MS4s but operate at a separate campus or facility as “non-traditional MS4s.”

Federal regulations allow two permitting options for storm water discharges: individual permits and general permits. The State Water Resources Control Board (State Water Board) elected to adopt a statewide general permit for Small MS4s in order to efficiently regulate numerous storm water discharges under a single permit.

In certain situations a storm water discharge may be more appropriately and effectively regulated by an individual permit, a region-specific general permit, or by inclusion in an existing Phase I MS4 permit. In these situations, the Regional Water Quality Control Board (Regional Water Board) Executive Officer will direct the Small MS4 operator to submit the appropriate application, in lieu of a Notice of Intent (NOI), to comply with the terms of this Order. In these situations, the individual or regional permits will govern, rather than this Order.

The existing General Permit (Water Quality Order 2003-0005-DWQ) was adopted by the State Water Board in April 2003 for a 5-year permit term. The existing General Permit expired in May 2008; however, it continues in force and in effect until rescinded by the State Water Board, or until a new Order is issued.

The Order regulates storm water runoff from small municipalities and other facilities, including federal and State operated facilities that can include universities, prisons, hospitals, military bases (e.g. State Army National Guard barracks, parks and office building complexes.) Regulating many storm water discharges under one permit greatly reduces the administrative burden associated with permitting individual storm water discharges. Permittees obtain coverage under this Order by filing an electronic NOI through the State Water Board's Stormwater Multiple Application and Report Tracking System (SMARTS) and by mailing the appropriate permit fee to the State Water Board.

Order Goals

The goals for the Order included:

1. Ensure statewide consistency for Regulated Small MS4s.
2. Include more specificity in Order language and requirements to streamline implementation of storm water programs.
3. Implement and enhance actions to control 303(d) listed pollutants, pollutants of concern, achieve Waste Load Allocations adopted under Total Maximum Daily Loads, and protect Areas of Special Biological Significance.
4. Implement more specific and comprehensive storm water monitoring, including monitoring for 303(d) listed pollutants.
5. Incorporate emerging technologies, especially those that are being increasingly utilized by municipalities (e.g., low impact development).
6. Include program elements that address Program Management Effectiveness Assessments.
7. Implement a step-wise Stakeholder collaborative approach.

Stakeholder Collaborative Process

State Water Board staff conducted a series of stakeholder meetings with Permittees and other interested parties over a five year period, from 2007- 2012. These meetings included the Stormwater Quality Association (CASQA) Phase II

Small MS4 Subcommittee, representatives of non-governmental organizations, Non-traditional Small MS4s and Regional Water Board staff. The following is a summary of the stakeholder process.

State Water Board staff completed an administrative draft Order and submitted it to CASQA, U.S. EPA, Natural Resources Defense Council, Keepers, and Heal the Bay for informal stakeholder review in February 2011. Each of the nine Regional Water Boards provided comments. Staff revised the draft Order to address the informal comments received and released it for 60-day public review in June 2011. Approximately 151 comments were received and several workshops were held throughout California to meet Stakeholders, answer questions and discuss the development process.

On May 4, 2012 a second administrative draft was completed and submitted for informal stakeholder review. On May 18, 2012 the second draft Order was released for 60-day public review.

II. PERMITTING APPROACH

Existing General Permit Approach

U.S. EPA storm water regulations for Phase II storm water permits envision a process in which entities subject to regulation develop a Storm Water Management Plan (SWMP). The SWMP contains detailed Best Management Practices (BMPs) and specific level-of-implementation information reviewed and approved by the permitting agency before the Permittee obtains coverage under the storm water permit. The existing General Permit followed this approach as suggested by U.S. EPA and simply identified goals and objectives for each of the six Minimum Control Measures.

The existing General Permit approach provides the flexibility to target an MS4's problem areas while working within the existing organizational structure. However, audits of Permittees and information gained from interviews with Regional Water Board staff revealed that many of these storm water programs lacked a baseline program and specific details in the SWMP to implement an adequate program for protection from the impacts of storm water runoff. Regional Water Board staff found it difficult to determine Permittees' compliance with the existing General Permit, due to the lack of specific requirements. The permit language did not contain specific deadlines for compliance, did not incorporate clear performance standards, and did not include measurable goals or quantifiable targets for implementation.¹

The Regional Water Boards conducted approximately 36 on-site audits of MS4 programs² in the state that addressed 122 Permittees, including some Phase II Small MS4s. They found that programs with more specific permit requirements

¹ Storm water Phase I MS4 Permitting: Writing more effective, measurable permits, EPA, Kosco.

² Assessment Report on Tetra Tech's Support of California's MS4 Storm Water Program, July 2006.

generally resulted in more comprehensive and progressive storm water management programs. For example, the more prescriptive permit requirements in the Los Angeles and San Diego MS4 permits require Permittees to be specific in how they implement their storm water program. The auditors concluded that the specificity of the provisions enabled the permitting authorities to enforce the MS4 permits and improve the quality of MS4 discharges. In addition, U.S. EPA on-site audits of MS4s throughout the nation have repeatedly shown the need for clear, measurable requirements in MS4 permits to ensure an effective and enforceable program.

Given this information, State Water Board staff aimed to write permit language clear enough to set appropriate standards and establish required outcomes.

Current Order Approach

The current approach simplifies assessment of Permittee compliance and allows the public to more easily access measurable results. The Order provisions establish compliance implementation levels such as minimum percentage of facilities inspected annually, escalating enforcement, and requirements for tracking projects. Required actions include specific reporting elements to substantiate compliance with implementation levels. Regional Water Board staff will be able to evaluate each individual Permittee's compliance through an online Annual Report review and the program evaluation (audit) process.

Federal regulations and State law require that the implementation specifics of Municipal Storm Water NPDES permits be adopted after adequate public review and comment.³ This Order's approach satisfies the public involvement requirements of both the federal Clean Water Act and the California Water Code. Permit details are known at the time of adoption of the Order. Substantive information as to how the discharger will reduce pollutants to the Maximum Extent Practicable (MEP) is not left to the details of the SWMP. The public need not guess program details until Regional Water Board review and approval of a SWMP, as was the case in the existing General Permit.

This Order specifies the actions necessary to reduce the discharge of pollutants in storm water to the MEP in a manner designed to achieve compliance with water quality standards and objectives. This set of specific actions is equivalent to the requirements that were included in a separate SWMP for each Permittee in the

³ On January 14, 2003, the U.S. Ninth Circuit Court issued a decision in *Environmental Defense Center v. EPA* ((9th Cir. 2003) 344 F.3d 832.) This ruling upheld the Phase II regulations on all but three of the 20 issues contested. The court determined that applications for general permit coverage (including the NOI and any Storm Water Management Program [SWMP]) must be made available to the public, the applications must be reviewed and determined to meet the Maximum Extent Practicable (MEP) standard by the permitting authority before coverage commences, and there must be a process to accommodate public hearings. Regarding the issue of public participation, the Ninth Circuit noted that such participation was required because the "substantive information about how the operator of a small MS4 will reduce discharges to the maximum extent practicable" was found in the storm water management plan rather than the permit itself" (344 F3d at 857).

existing General Permit. This order effectively prohibits non-storm water discharges into municipal storm drain systems and watercourses within the Permittees' jurisdictions.

The State Board has also identified the most critical water quality problems as priorities in this Order. The priorities include (1) discharges to Areas of Special Biological Significance (2) discharges to water bodies listed as impaired on the 303[d] list (3) Post-Construction Requirements and (4) Water Quality Monitoring Requirements. A majority of the Permittees' implementation efforts focus on the four priority areas as identified by the State Water Board.

Permittee Diversity

In California, Permittees face highly variable conditions both in terms of threats to water quality from their storm water discharges and resources available to manage those discharges. Consequently, making one set of prescriptive requirements work for all of them is inherently difficult. This Order contains separate provisions for traditional and non-traditional MS4s. The requirements for the non-traditional MS4s are tailored specifically to the non-traditional management structure. Additionally, this permit introduces the concept of compliance tiers in particular sections, designed to relieve the Regional Water Board burden of reviewing and approving individual SWMPs while preserving the ability of the Permittees to tailor requirements that address their unique circumstances.

Non-traditional MS4 Categories and Provisions

This Order identifies specific provisions non-traditional MS4 Permittees must comply with in Section F and considers the following categories to be non-traditional MS4s, but not limited to:

- Community Services Districts
- Fairgrounds
- Higher Education Institutions (Community Colleges and Universities)
- Military Bases
- State Parks/Beaches/Historical Areas
- School Districts K-12 and County Office of Education, including Charter Schools
- State and Federal Prisons/Health Institutions
- State Vehicle Recreation Areas
- Water Agencies

The regulations direct that the term Small MS4s includes "large hospitals" and "prison complexes." (40 CFR §122.26.) For purposes of State Water Board designation of state and federal hospitals and prisons, the Board interprets the terms "large hospital" and "prison complex" to mean health institutions and prison facilities with a resident and staff population of 5,000 or more. However, Regional Water Boards may designate smaller facilities on a case by case basis.

Guidance Document

The case for eliminating a SWMP for this second permit term has been clearly addressed, however, the latent advantages of having some form of a storm water management document has not.

First, a storm water management document assists Permittees in managing their storm water program. Such a document serves as guidance to (1) identify different staff involved in storm water compliance over multiple departments within the Permittee agency and, (2) provide those staff with a narrative connecting all the detailed, specific BMPs in relation to multiple Permittee departments. Simply put, the document provides the Permittee with a map to the compliance process.

Second, the storm water management document is an essential tool for Regional Water Board audits. During MS4 audits, the Regional Water Board typically requests and reviews a SWMP to understand the Permittee's storm water program and management structure. Although the Order contains specific details on each program requirement, it lacks the narrative nexus that a storm water management document can provide on how the storm water program is implemented by a specific Permittee.

Therefore, although the draft Order eliminates the submittal for review and approval of a SWMP, the requirement to develop a planning/guidance document has been retained for new Permittees. New Permittees are allowed six months to develop and upload the guidance document to SMARTS along with the NOI and appropriate fee. The document is open for public viewing, but will not be reviewed and approved by the relevant Regional Water Board.

Summary of Significant Changes in this Order

This Order significantly differs from the previous order (Order 2003-0005-DWQ) by including the following:

- Specific BMP and Management Measure Requirements
- Eliminate submission of a SWMP for review and approval by the Regional Water Boards
- Electronic filing of NOIs and Annual Reports
- Waiver Certification
- New State Water Board and Regional Water Board designation criteria
- Separate requirements for traditional and non-traditional MS4s
- New program management requirements
- Post-construction storm water management requirements
- TMDL implementation requirements
- Requirements for ASBS discharges
- Water quality monitoring and BMP assessment
- Program effectiveness assessment

III. ECONOMIC CONSIDERATIONS

In 2000, the State Water Board issued a precedential order (Order WQ 2000-11) stating that cost of compliance with the programs and requirement of a municipal storm water permit is a relevant factor in determining MEP.

The State Water Board received extensive comments addressing the costs associated with compliance with the first publicly released Phase II small MS4 draft Order in June 2011. The depressed economic conditions in California challenge Permittees' ability to fully implement the requirements of the first draft permit. The State Water Board recognizes that many Permittees currently have limited staff and resources to implement storm water provisions. State Water Board staff carefully considered comments received regarding economic feasibility while revising the June 2011 draft Order. The Order continues to address critical water quality priorities, namely discharges to ASBS, TMDLs, and waterbodies listed as impaired on the 303(d) list, but aims to do so in a focused and cost-effective manner.

Brief History

State Water Board staff completed an administrative draft Order and submitted it to CASQA, U.S. EPA, Natural Resources Defense Council, Water Keepers, and Heal the Bay for informal stakeholder review in February 2011. Each of the nine Regional Water Boards also provided comments. Staff revised the draft Order to address the informal comments received and released it for 60-day public review in June 2011. Approximately 151 comments were received and several workshops were held throughout California to meet Stakeholders, answer questions and discuss the development process.

On October 6, 2011, the California Senate Select Committee on California Job Creation and Retention held a hearing on the economic impacts of the State Water Board's three general or statewide storm water permits that were under renewal: the Phase II Small MS4 permit, the Industrial General Permit, and the Caltrans statewide MS4 permit. The Executive Director of the State Water Board testified at the hearing that the comments regarding cost of compliance with the permits were being considered carefully and that the three permits required substantial revision to address the comments. Following the hearing, State Water Board staff launched Stakeholder meetings beginning in November 2011 to April 2012. The meetings were held with CASQA, National Resources Defense Council, Water Keepers, Heal the Bay and each category of Non-traditional Small MS4 proposed for designation in the draft permit. The meetings were designed to discuss implementation challenges and solutions for each section of this Order, given the issues raised at the Senate hearing and the written comments from the June 2011 draft Order. Substantial revisions were then made and were reflected in the May 2012 draft Order. State Water Board staff attempted to reduce costs while maintaining the level of water quality protection mandated by CWA, CWC and other applicable requirements.

Approach to Cost of Compliance

This section is a general discussion of the more significant changes between the June 2011 and the May 2012 draft Order, including cost of compliance. It is not

possible to accurately predict the cost impact of requirements that involve an unknown level of implementation or that depend on environmental variables that are as yet undefined. Only general conclusions can be drawn from this information.

It is extremely important to note that many storm water program components and their associated costs existed before any MS4 permits were issued. For example, storm drain maintenance, street sweeping and trash/litter collection costs cannot be solely or even principally attributed to MS4 permit compliance since these long-standing practices preceded the adoption of the earliest storm water permit in 1990. Even many structural BMPs (erosion protection, energy dissipation devices, detention basins etc.) are standard engineering practice for many projects and are not implemented solely to comply with permit provisions. Therefore, the true cost resulting from MS4 permit requirements is some fraction of the total storm water program costs.

The California State University, Sacramento study found that only 38% of program costs are new costs fully attributable to MS4 permits. The remainder of program costs was either pre-existing or resulted from enhancement of pre-existing programs.⁴ The County of Orange found that even lesser amounts of program costs are solely attributable to MS4 permit compliance, reporting that the amount attributable to implement its Drainage Area Management Plan is less than 20% of the total budget. The remaining 80% is attributable to pre-existing programs.⁵ Any increase in cost to the Permittees by the requirements of this Order will be incremental in nature.

Testimony from the California Senate Select Committee on California Job Creation and Retention hearing and comment letters on the June 2011 draft Order asserted numerous estimates of compliance costs. Generally, the estimates are based on worst-case scenarios or the most restrictive interpretation of the June 2011 draft Order. A worst-case scenario would come about, for example, if a new Traditional MS4 Permittee fails to leverage existing resources and maximize efficiencies, and does not segregate pre-existing program expenditures and new costs to implement the storm water program when considering cost of compliance. Furthermore, the assertions do not take into consideration the phased-in nature of many of the June 2011 draft Order requirements. Finally, the cost estimate assertions did not address the diversity among Permittees, specifically the different levels of compliance from a new vs. renewal Traditional MS4 Permittee expenditure and new vs. renewal Non-traditional MS4 expenditure and funding sources.

State Water Board staff estimated the cost of compliance in two ways. First, staff utilized cost data from the California State University (CSUS) NPDES Stormwater Cost Survey⁶. The rationale for using this document is that it's very difficult to

⁴ Ibid. p. 58.

⁵ County of Orange, 2000. A NPDES Annual Progress Report. P. 60. More current data from the County of Orange is not used in this discussion because the County of Orange no longer reports such information.

⁶ California State University, NPDES Stormwater Cost Survey, 2005

precisely determine the true cost of implementation of the Permittees' storm water management program as affected by this Order. Reported costs of compliance for the same program element vary widely from city to city and by a very great margin that cannot be explained. However, economies of scale play a great role for the great margin of compliance costs. Some Permittees storm water programs are general funded while others utilize a service/user/utility fees to support the program. Unfortunately, those Permittees with general funded programs must compete for dollars in a dwindling economic climate. Furthermore, a study by the Los Angeles Regional Water Board reported wide variability in the cost of compliance among municipal permit holders, which was not easily explained.⁷ Due to the wide diversity among the Permittees, Traditional and Non-traditional and new and renewal Permittees, the uncertainty of the extent of needed improvements, and the difficulty in isolating program costs attributable to permit compliance, the true cost of implementation can only be discussed in a general way.

Second, staff considered comparisons between the June 2011 draft Order and first term Phase I MS4 permits. The municipalities chosen in the CSUS survey were smaller Phase I cities, were early in the first permit term, and had reported cost in their annual reports. In addition, the cost categories correspond to the federal Phase II Small MS4 six minimum control measures. Given these factors, State Water Board staff estimated the worst-case scenario example to be a \$32 median annual cost per household to implement the June 2011 draft Order. The CSUS survey estimated the annual cost per household for the six storm water programs ranged from \$18 to \$46.

Of the 100 new Traditional Small MS4s proposed to be designated, 20,000 is the average population with an average of 2.8 individuals per household, therefore the average annual cost to implement the June 2011 draft Order is approximately \$229,000.

The average population of a renewal Traditional MS4 Permittee identified in the June 2011 draft Order is 27,353 with an average of 2.8 individuals per household. Therefore, the average annual cost to implement the June 2011 draft Order is approximately \$313,000.

As discussed previously, the May 2012 draft Order has undergone substantial edits and no requirements have been added to the draft Order that would materially increase the cost of compliance. State Water Board staff carefully evaluated comments from Stakeholder meetings, written public comments, and testimony from the Senate Select Committee hearing. And, although the May 2012 draft Order contains these substantial revisions, the draft Order continues to protect storm water quality without overburdening Permittees and Businesses. Below is a list of some of the more significant changes to reduce costs.

1. Deleted annual cost analysis

⁷ LARWQCB, 2003. Review and Analysis of Budget Data Submitted by the Permittees for Fiscal Years 2000-2003. p.2

2. Deleted Industrial/Commercial Inspection Program
3. Deleted mandatory construction inspection frequency
4. Deleted Trash Reduction Program
5. Modified post-construction standard requirements
6. Modified Community-Based Social Marketing provision
7. Modified Non-traditional MS4 provisions
8. Extended compliance deadlines
9. Eliminated redundancy with construction inventory and tracking requirements
10. Deleted mandatory development of a citizen advisory group
11. Deleted costly IDDE monitoring, complaint response based
12. Made GIS optional
13. Deleted requirement to identify 20% of storm drain system as high priority
14. Included Water Quality Monitoring Tiers

Though no firm conclusions or precise estimates can be drawn from this analysis, it is expected that the revisions to the May 2012 draft Order will significantly reduce the cost of compliance of the average annual cost per household from the estimated \$32 to substantially lower.

TMDLs

The cost of complying with TMDL waste load allocations is not considered since TMDLs are not subject to the MEP standard. Federal law requires that NPDES permits contain effluent limitations consistent with the assumptions of any applicable wasteload allocation in a TMDL. (40 C.F.R. §122.44(d)(1)(vii)(B).)

Benefits of Permit Costs

The State Water Board further found in adopting Order WQ-2000-11 that in considering the cost of compliance, it is also important to consider the costs of impairment; that is, the negative impact of pollution on the economy and the positive impact of improved water quality. For example, economic benefits may result through program implementation, and alternative costs (as well as environmental impacts) may be incurred by not fully implementing the program.

Storm water management programs cannot be considered solely in terms of their costs. The programs must also be viewed in terms of their value to the public. For example, household willingness to pay for improvements in fresh water quality for fishing and boating has been estimated by U.S. EPA to be \$158-210.⁸ This estimate can be considered conservative, since it does not include important considerations such as marine waters benefits, wildlife benefits, or flood control benefits. The California State University, Sacramento study corroborates U.S. EPA's estimates, reporting annual household willingness to pay for statewide clean water to be \$180.⁹ Though these costs may be assessed differently at the state level than at the municipal level, the results indicate that there is public support for storm water management programs and that costs incurred by the Permittees to implement its storm water management program remain reasonable.

⁸ Federal Register / Vol. 64, No. 235 / Wednesday, December 8, 1999 / Rules and Regulations. P. 68793.

⁹ State Water Board, 2005. NPDES Storm water Cost Survey. P. iv.

It is also important to consider the cost of not implementing a storm water management program. Urban runoff in southern California has been found to cause illness in people bathing near storm drains.¹⁰ A study of south Huntington Beach and north Newport Beach found that an illness rate of about 0.8% among bathers at those beaches resulted in about \$3 million annually in health-related expenses.¹¹ Extrapolation of such illness rates and associated health expenses to the beaches and other water contact recreation areas in the state would increase these costs significantly.

Storm water runoff and its impact on receiving waters also negatively affects the tourism industry. The California Travel and Tourism Commission estimated that out-of-state visitors spent \$168 per person per day (including transportation) in California in 2007. The Commission estimated total direct travel spending in California was \$97.6 billion, directly supporting 924,000 jobs, with earnings of \$30.6 billion. Effects on tourism from storm water runoff (e.g. beach closures) can have a significant impact on the economy. The experience of Huntington Beach provides an example of the potential economic impact of poor water quality. Approximately eight miles of Huntington Beach were closed for two months in the middle of summer of 1999, impacting beach visitation and the local economy.

Finally, the benefits of storm water management programs must be considered in conjunction with their costs. A study conducted by University of Southern California and the University of California, Los Angeles assessed the costs and benefits of implementing various approaches for achieving compliance with the MS4 permits in the Los Angeles Region. The study found that non-structural systems would cost \$2.8 billion but provide \$5.6 billion in benefit. If structural systems were necessary, the study found that total costs would range from \$5.7 to \$7.4 billion, while benefits could reach \$18 billion.¹² Costs are anticipated to be borne over many years, approximately a ten year minimum. That the benefits of the programs would considerably exceed their costs is a view corroborated by U.S. EPA, which also found that the benefits of implementation of its Phase II storm water rule would outweigh the costs.¹³

IV. UNFUNDED MANDATES

Article XIII B, Section 6(a) of the California Constitution provides that whenever “any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service.” The requirements of this Order do not constitute state mandates that are subject to a subvention of funds.

¹⁰ Haile, R.W., et al, 1996. An Epidemiological Study of Possible Adverse Health Effects of Swimming in Santa Monica Bay. Santa Monica Bay Restoration Project.

¹¹ Los Angeles Times, May 2, 2005. Here's What Ocean Germs Cost You: A UC Irvine Study Tallies the Cost of Treatment and Lost Wages for Beachgoers Who Get Sick.

¹² LARWQCB, 2004. Alternative Approaches to Storm water Control.

¹³ Federal Register / Vol. 64, No. 235 / Wednesday, December 8, 1999 / Rules and Regulations. P. 68791.

First, the requirements of this Order do not constitute a new program or a higher level of service as compared to the requirements of the Existing Order. The overarching requirement to impose controls to reduce the pollutants in municipal storm water is dictated by the Clean Water Act and is not new to this permit cycle. (33 U.S.C. §1342(p)(3)(B).) The inclusion of new and advanced measures as the storm water programs evolve and mature over time is anticipated under the Clean Water Act (55 Fed. Reg. 48052), and these new and advanced measures do not constitute a new program or higher level of service.

Second, and more broadly, mandates imposed by federal law, rather than by a state agency, are exempt from the requirement that the local agency's expenditures be reimbursed. (Cal. Const., art. XIII B, §9, subd. (b).) The Draft Order implements federally mandated requirements under the Clean Water Act and its requirements are therefore not subject to subvention of funds. This includes federal requirements to effectively prohibit non-storm water discharges, to reduce the discharge of pollutants to the maximum extent practicable, and to include such other provisions as the Administrator or the State determines appropriate for the control of such pollutants. (30 U.S.C. §1342(p)(3)(B).) The authority exercised under this Order is not reserved state authority under the Clean Water Act's savings clause (*cf. Burbank v. State Water Resources Control Bd.* (2005) 35 Cal.4th 613, 627-628), but instead is part of a federal mandate to develop pollutant reduction requirements for municipal separate storm sewer systems. To this extent, it is entirely federal authority that forms the legal basis to establish the permit provisions. (See, *City of Rancho Cucamonga v. Regional Water Quality Control Bd.-Santa Ana Region* (2006) 135 Cal.App.4th 1377, 1389; *Building Industry Ass'n of San Diego County v. State Water Resources Control Bd.* (2004) 124 Cal.App.4th 866, 882-883.)

Further, the maximum extent practicable standard is a flexible standard that balances a number of considerations, including technical feasibility, cost, public acceptance, regulatory compliance, and effectiveness. (*Building Ind. Asso., supra*, 124 Cal. App.4th at pp. 873, 874, 889.) Such considerations change over time with advances in technology and with experience gained in storm water management. (55 Fed.Reg. 48052.) Accordingly, the determination of whether the Draft Order conditions exceed the requirements of federal law cannot be based on a point by point comparison of the permit conditions and the six minimum measures that are required "at a minimum" to reduce pollutants to the maximum extent practicable and to protect water quality (40 CFR §122.34). Rather, the appropriate focus is whether the permit conditions, as a whole, exceed the maximum extent practicable standard. In recent months, the County of Los Angeles and County of Sacramento Superior Courts have granted writs setting aside decisions of the Commission on State Mandates that held that certain requirements in Phase I permits constituted unfunded mandates. In both cases, the courts found that the correct analysis in determining whether a municipal storm water permit constituted a state mandate was to evaluate whether the permit as a whole -- and not a specific permit provision -- exceeds the maximum extent practicable standard. (*State of Cal. v. Comm. On State Mandates* (Super. Ct. Sacramento County, 2012, No. 34-2010-80000604),

State of Cal. v. County of Los Angeles (Super. Ct. Los Angeles County, 2011, No. BS130730.)

As laid out in this Fact Sheet, the requirements of the Draft Order, taken as a whole rather than individually, are necessary to reduce the discharge of pollutants to the maximum extent practicable and to protect water quality. These findings are the expert conclusions of the principal state agency charged with implementing the NPDES program in California. (Wat. Code, §§13001.) The requirements of the Draft Order do not constitute an unfunded mandate.

It should be noted that the Draft Order provisions to effectively prohibit non-storm water discharges are also mandated by the Clean Water Act. (33 U.S.C. §1342(p)(3)(B)(ii).) Likewise, the provisions of this Draft Order to implement total maximum daily loads (TMDLs) are federal mandates. Federal law requires that permits must contain effluent limitations consistent with the assumptions of any applicable wasteload allocation in a TMDL. (40 C.F.R. §122.44(d)(1)(vii)(B).)

Finally, even if any of the permit provisions could be considered unfunded mandates, under Government Code section 17556, subdivision (d), a state mandate is not subject to reimbursement if the local agency has the authority to charge a fee. The local agency permittees have the authority to levy service charges, fees, or assessments sufficient to pay for compliance with this Order. (See, e.g., *Apartment Ass'n of Los Angeles County, Inc. v. City of Los Angeles* (2001) 24 Cal.4th 830, 842.) The authority of a local agency to defray the cost of a program without raising taxes indicates that a program does not entail a cost subject to subvention. (*Clovis Unified School Dist. v. Chiang* (2010) 188 Cal. App.4th 794, 812, quoting *Connell v. Superior court* (1997) 59 Cal.App.4th 382, 401; *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487-488.)

V. ROLE OF THE REGIONAL WATER BOARDS

Regional Water Board staff will continue to have the authority to evaluate each individual Permittee's compliance through online Annual Report review and the program evaluations (audits). These evaluations can either be targeted or comprehensive evaluations. Responsibilities of Regional Water Board staff also include oversight of implementation and compliance with this Order. As appropriate, they can require modification to programs and other submissions, impose region-specific monitoring requirements, conduct inspections, take enforcement actions, and make additional designations of Regulated Small MS4s.

All Permittees must comply with this Order, but in the case of Renewal Permittees, a Regional Water Board Executive Officer may determine a Renewal Traditional Small MS4 Permittee's current implementation of BMPs is equally or more effective at reducing pollutant discharges than implementation of the requirements of a given subsection, the Executive Officer may require continued implementation of the

Permittee's current BMPs and reporting requirements in lieu of implementation of the requirements of this Order.

Regional Water Boards may also issue individual permits to Regulated Small MS4s, and alternative general permits to categories of Regulated Small MS4s. In addition, allow Phase II Permittees the ability to become Phase I Permittees within the same urbanized area. Upon issuance of such permits by a Regional Water Board, this Order shall no longer regulate the affected MS4s.

The Permittees and Regional Water Boards are encouraged to work together to accomplish the goals of the storm water program, specifically, by coordinating the oversight of construction and industrial sites. For example, certain Permittees are required to implement a construction program that must include procedures for construction site inspection and enforcement. Construction sites disturbing an acre of land or more are also subject to inspections by the Regional Water Board under the State Water Board's Construction General Permit for Storm Water Discharges associated with Construction and Land Disturbance Activities (CGP). U.S. EPA intended to provide a structure that requires permitting through the federal Clean Water Act while at the same time achieving local oversight of construction projects. A structured plan review process and field enforcement at the local level, which is also required by this Order, were cited in the preamble to the Phase II regulations as the most effective components of a construction program.

The Permittees and Regional Water Boards are encouraged to coordinate efforts and use each of their enforcement tools in the most effective manner. However, in order to further ensure coordination, this Order requires Permittees to include procedures for referring non-filers as identified in the Program Management section and violations of the storm water general permits to the Regional Water Board when observed.

VI. ENTITIES SUBJECT TO THIS ORDER

This Order regulates discharges of storm water from Regulated Small MS4s. A Regulated Small MS4 is a Small MS4 that has been designated as regulated in accordance with criteria described in 40 CFR 122.32.

a. Renewal Permittee - Traditional and Non-traditional MS4s

All Traditional and Non-traditional MS4s currently covered under the existing General Permit are covered under this Order.

b. New Traditional MS4 Permittee or New Urbanized Areas

In some cases, the urbanized boundaries and/or infrastructure of previously permitted Traditional MS4 Permittees may expand to include new areas designated as urbanized under the 2010 U.S. Decennial Census (e.g., when new areas are annexed within the urbanized area). Permittees must identify

and include these new urbanized areas as part of their existing storm water program. Any new urbanized areas must be indicated on Permittees permit boundary map. For cities, the permit area boundary is the city boundary. For counties, permit boundaries must include urbanized areas and places identified in Attachment A located within their jurisdictions. The boundaries must be proposed in the permit boundary map and may be developed in conjunction with the applicable Regional Water Board

New Traditional MS4 Permittees that are outside of Urbanized Areas have been designated as Regulated Small MS4s based on one or more of the following criteria developed by the State Water Board:

- 1) High population and population density – High population means a population of 10,000 or more. High population density means a density greater than 1,000 residents per square mile. Also considered in this definition is high density created by a non-residential population, such as tourists or commuters.
- 2) Discharge to Areas of Special Biological Significance (ASBS) as defined in the California Ocean Plan.

The above factors were considered when evaluating whether an MS4 outside an Urbanized Area should be regulated pursuant to this Order. An MS4 and the population that it serves need not meet all of the factors to be designated. The criteria selected to designate MS4s to be regulated are based on the potential impact to water quality due to conditions influencing discharges into their system or due to their discharge location(s).

On a case by case basis, the Regional Water Boards may designate Small MS4s outside of Urbanized Areas as Regulated Small MS4s. Case by case determinations of designation shall be based on the potential of a Small MS4's discharges to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts. Where such case by case designations have been recommended by the Regional Water Boards prior to adoption of this Order, the designated Small MS4s are listed on the relevant Attachments to the Order and the reasons for designation are laid out in the Fact Sheet. The Regional Water Boards may continue to make case by case determinations of designation during the permit term by notification to the discharger, which shall include a statement of reasons for the designation.

Finally, any Small MS4 that contributes substantially to the pollutant loadings of a physically interconnected municipal separate storm sewer that is regulated by the NPDES storm water program must be designated as Regulated Small MS4s. An MS4 is interconnected with a separately permitted MS4 if storm water that has entered the MS4 is discharged to

another permitted MS4. In general, if the MS4 discharges more than 10 percent of its storm water to the permitted MS4, or its discharge makes up more than 10 percent of the other permitted MS4's total storm water volume, it is a significant contributor of pollutants to the permitted MS4. In specific cases, the MS4s involved or third parties may show that the 10 percent threshold is inappropriate for the MS4 in question.

The definition for significant contributor of pollutants to an interconnected permitted MS4 uses a volume of 10 percent, with the assumption that storm water contains pollutants. This is meant to capture flows that may affect water quality or the permit compliance status of another MS4, but exclude incidental flows between communities.

c. New Non-traditional MS4 Permittees

Non-traditional MS4s include, but not limited to, universities, prisons, large hospitals, military bases (e.g., State Army National Guard barracks), and State parks.

The existing General Permit, Water Quality Order 2003-0005-DWQ, Attachment 3 listed Non-traditional MS4s anticipated to be designated by the end of the permit term, either by the State or Regional Water Boards. However, some Non-traditional MS4s were not designated. All Non-traditional MS4s, except K-12 School Districts and Community Colleges, not yet designated are now subject to this Order. These entities are listed in Attachment B.

Additional Non-traditional MS4 Permittees have been designated as Regulated Small MS4s in accordance with the same criteria described in b above.

VII. APPLICATION REQUIREMENTS

All Regulated Small MS4s listed in Attachments A and B are automatically designated upon adoption of this Order and must file for coverage. To file for coverage, Permittees must electronically file an NOI on the State Water Board's SMARTS website and mail the appropriate permit fee to the State Water Board:

<https://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.jsp>

The NOI will include a statement that the discharger intends to comply with the BMP requirements of the Order in lieu of proposing BMP practices. Permittees must file within six months of effective date (100 days after adoption by the State Water Board.)

Joint Phase II Co-Permittees or Permittees relying on Separate Implementing Entities must also electronically file an NOI via SMARTS and mail the appropriate fee to the State Water Board.

For fee purposes, in determining the total population served by the MS4, both resident and commuter populations are to be included. For example, publicly operated school complexes including universities and colleges, the total population served would include the sum of the average annual student enrollment plus staff.

For community services districts, the total population served would include the resident population and any non-residents regularly employed in the areas served by the district.

Regulated Small MS4s that fail to obtain coverage under this Order or other NPDES permit for storm water discharges will be in violation of the Clean Water Act and the California Water Code.

The Order includes State and Regional Water Board contact information for questions and submittals.

Waiver Certification

This Order allows Regulated Small MS4s to request a waiver of requirements. Regulated Small MS4 must certify (1) their discharges do not cause or contribute to, or have the potential to cause or contribute to a water quality impairment, and (2) they meet one of the following three waiver options:

a. Option 1

- (1) The jurisdiction served by the system is less than 1,000 people;
- (2) The system is not contributing substantially to the pollutant loadings of a physically interconnected regulated MS4; and
- (3) If the small MS4 discharges any pollutants identified as a cause of impairment of any water body to which it discharges, storm water controls are not needed based on waste load allocations that are part of an EPA approved or established TMDL that addresses the pollutant(s) of concern.

b. Option 2

- (1) The jurisdiction served by the system is less than 10,000 people;
- (2) The Regional Water Board has evaluated all waters of the U.S. that receive a discharge from the system;
- (3) The Regional Water Board has determined that storm water BMPs are not needed based on wasteload allocations that are part of an EPA approved or established TMDL that addresses the pollutant(s) of concern or an equivalent analysis; and

- (4) The Regional Water Board has determined that future discharges from the Regulated Small MS4 do not have the potential to result in exceedances of water quality standards.

c. Option 3 (applicable to Small MS4s outside an Urbanized Area only)

- (1) Small Disadvantaged Community – a community with a population of 20,000 or less with an annual median household income (MHI) that is less than 80 percent of the statewide annual MHI (CWC § 79505.5 (a)).

VIII. POST-CONSTRUCTION AND HYDROMODIFICATION REQUIREMENTS FOR NEW AND REDEVELOPMENT PROJECTS

This Order incorporates Low Impact Development requirements for projects and contains Hydromodification requirements. However, for consistency, where a Phase II Non Traditional Permittee is located within a Phase I MS4 permit area, the Hydromodification Plan requirements of the outlying Phase I MS4 permit are implemented. The permit also includes an option for Regional Water Boards to incorporate criteria that are more protective of watershed processes identified and delineated in specific Watershed Management Zones.

IX. DISCHARGE PROHIBITIONS

Storm Water Discharges

This Order authorizes storm water and conditionally exempt non-storm water discharges¹⁴ from the Permittees' MS4s subject to effluent and receiving water limitations. This Order prohibits the discharge of material other than storm water, unless specifically authorized in this Order.

Non-Storm Water Discharges

Section 402(p)(3)(B)(ii) of the Clean Water Act requires that MS4 permits include a requirement to effectively prohibit non-storm water discharges into the storm sewers.

Non-storm water discharges that are not specifically exempted by this Order are subject to the existing regulations for point source discharges. Conditionally exempt non-storm water discharges that are found to be significant sources of pollution are prohibited.

Areas of Special Biological Significance

The State Water Board adopted the California Ocean Plan (Ocean Plan) on July 6, 1972 and revised the Ocean Plan in 1978, 1983, 1988, 1990, 1997, 2000, 2005

¹⁴ Conditionally exempt non-storm water also refers to authorized non-storm water.

and 2009. The Ocean Plan prohibits the discharge of waste to Areas of Special Biological Significance (ASBS). The State Water Board designates ASBS as ocean areas requiring protection of species or biological communities to the extent that alteration of natural water quality is undesirable.

The Ocean Plan states that the State Water Board may grant an exception to Ocean Plan provisions where the State Water Board determines that the exception will not compromise protection of ocean waters for beneficial uses and the public interest will be served.

On October 18, 2004, the State Water Board directed several dischargers to cease the discharge of storm water and nonpoint source waste into ASBS, or request an exception to the Ocean Plan. Several of these dischargers are designated as Regulated Small MS4s.

On March 20, 2012, the State Water Board adopted Resolution 2012-0012 granting an exception from the Ocean Plan prohibition to 13 parties (Attachment D) designated as Regulated Small MS4s under this Order. In order to legally discharge into an ASBS, the parties must comply with the terms of the exception and have an appropriate authorization to discharge. Authorization for point source discharges to ASBS consists of coverage under this NPDES Order.

The parties authorized to discharge under the general exception are listed in Attachment D. The general exception contains "Special Protections" to protect beneficial uses and maintain natural water quality in ASBS. Limited by the special conditions in the resolution, parties listed in Attachment E can legally discharge waste into ASBS as long as the discharges are also regulated under this Order.

This Order incorporates the terms of the exception and includes the monitoring requirements the 13 parties identified as Regulated Small MS4s must comply with.

X. EFFLUENT LIMITATIONS

Under 40 Code of Federal Regulations section 122.44(k)(2)&(3), the State Water Board may impose BMPs for control of storm water discharges in lieu of numeric effluent limitations.¹⁵

In 2004, the State Water Board assembled a blue ribbon panel to address the feasibility of including numeric effluent limits as part of NPDES municipal, industrial, and construction storm water permits. The panel issued a report dated

¹⁵ On November 12, 2010, USEPA issued a revision to a November 22, 2002, memorandum in which it had "affirm[ed] the appropriateness of an iterative, adaptive management best management practices (BMP) approach" for improving storm water management over time. In the revisions, USEPA recommended that, in the case the permitting authority determines that MS4 discharges have the reasonable potential to cause or contribute to a water quality excursion, the permitting authority, where feasible, include numeric effluent limitations as necessary to meet water quality standards. However, the revisions recognized that the permitting authority's decision as to how to express water quality based effluent limitations (WQBELs), i.e. as numeric effluent limitations or BMPs, would be based on an analysis of the specific facts and circumstances surrounding the permit. USEPA has since invited comment on the 2010 memorandum and will be making a determination as to whether to "either retain the memorandum without change, to reissue it with revisions, or to withdraw it." http://www.epa.gov/npdes/pubs/sw_tmdlwa_comments.pdf

June 19, 2006, which included recommendations as to the feasibility of including numeric limits in storm water permits, how such limits should be established, and what data should be required.

The report concluded that “It is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in particular urban discharges. However, it is possible to select and design them much more rigorously with respect to the physical, chemical and/or biological processes that take place within them, providing more confidence that the estimated mean concentrations of constituents in the effluents will be close to the design target.”

Consistent with the federal regulations, the findings of the Blue Ribbon Panel, and precedential State Water Board orders (State Water Board Orders Nos. WQ 91-03 and WQ 91-04), this Order allows the Permittees to implement BMPs to comply with the requirements of the Order.

XI. RECEIVING WATER LIMITATIONS

Under federal law, an MS4 permit must include "controls to reduce the discharge of pollutants to the maximum extent practicable . . . and such other provisions as . . . the State determines appropriate for the control of such pollutants." (Clean Water Act §402(p)(3)(B)(iii).) The State Water Board has previously determined that limitations necessary to meet water quality standards are appropriate for the control of pollutants discharged by MS4s and must be included in MS4 permits. (State Water Board Orders WQ 91-03, 98-01, 99-05, 2001-15; see also *Defenders of Wildlife v. Browner* (9th Cir. 1999) 191 F3d 1159.). The Proposed Order accordingly prohibits discharges that cause or contribute to violations of water quality standards.

The Proposed Order further sets out that, upon determination that a Permittee is causing or contributing to an exceedance of applicable water quality standards, the Permittee must engage in an iterative process of proposing and implementing additional control measures to prevent or reduce the pollutants causing or contributing to the exceedance. This iterative process is modeled on receiving water limitations set out in State Water Board precedential Order WQ 99-05 and required by that Order to be included in all municipal storm water permits.

The Ninth Circuit held in *Natural Resources Defense Council, Inc. v. County of Los Angeles* ((2011) __ F.3d __, 2011 WL 2712963) that engagement in the iterative process does not provide a safe harbor from liability for violations of permit terms prohibiting exceedances of water quality standards. The Ninth Circuit holding is consistent with the position of the State Water Board and Regional Water Boards that exceedances of water quality standards in an MS4 permit constitute violations of permit terms subject to enforcement by the Boards or through a citizen suit. While the Boards have generally directed dischargers to achieve compliance by improving control measures through the iterative process, the Board retains the

discretion to take other appropriate enforcement and the iterative process does not shield dischargers from citizen suits.

XII. STORM WATER MANAGEMENT PROGRAM FOR TRADITIONAL MS4s

PROGRAM ELEMENTS

Adequate Legal Authority

Legal Authority: Clean Water Act § 40 CFR 122.26(d)(2)(i) and 40 CFR 122.34(b)(3)(ii)(B), (b)(4)(ii)(A), and (b)(5)(ii)(B).

Adequate legal authority is required for Permittees to implement and enforce their storm water programs. Without adequate legal authority, Permittees would be unable to perform many vital program elements such as performing inspections and requiring installation of control measures. In addition, Permittees would not be able to conduct enforcement activities, assess penalties and/or recover costs of remediation.

Program Management

This component is essential to ensure timely implementation of all elements of the storm water program and consistency with the Order requirements. Lessons learned in California from Phase I Permittees and various municipal audits are that a Program Management element can:

- a. Identify departments that assist with the implementation of the program as well as their roles and responsibilities;
- b. Maintain and enforce adequate legal authority to control pollutant discharges; and

Enforcement Response Plan

Legal Authority: Clean Water Act § 40 CFR 122.26(d)(2)(i)).

In ordinances or other regulatory mechanisms, Permittees are required to include penalty provisions to (1) ensure compliance with construction and industrial requirements, (2) to require the removal of illicit discharges, and (3) to address noncompliance with post-construction requirements. To meet these requirements, this Order requires enforcement responses that vary with the type of permit violation, and escalate if violations are repeated or not corrected. The Permittee must develop and implement an Enforcement Response Plan (ERP), which clearly describes the action to be taken for common violations associated with the construction program, industrial and commercial program, or other program elements. A well-written ERP provides guidance to inspectors on the different

enforcement responses available, actions to address general permit non-filers, when and how to refer violators to the State, and how to track enforcement actions.

Education and Outreach on Storm Water Impacts

Legal Authority: Clean Water Act § 40 CFR 122.34(b)(1),(2)).

Without a focused and comprehensive program, outreach and education efforts will be poorly coordinated and ineffective. This Order requires Permittees to develop an education and outreach program that is tailored and targeted to specific water quality issues of concern in the community. These community-wide and targeted issues should then guide the development of the comprehensive outreach program, including the creation of appropriate messages and educational materials. Outreach and education not only includes the public as the target audience, but includes Permittee staff and construction site operators as well.

This Order includes different compliance path that, upon determination by a Regional Board Executive Officer, requires the possible implementation of Community-Based Social Marketing (CBSM). CBSM is a systematic way to change the behavior of communities to reduce their impact on the environment. Simply providing information is usually not sufficient to initiate behavior change. CBSM uses tools and findings from social psychology to discover the perceived barriers to behavior change and ways of overcoming these barriers.¹⁶ The CBSM path is included in Attachment E.

In addition to external public outreach, outreach and education efforts should also be directed internally at Permittee staff who, as part of their normal job responsibilities, participate in storm water program operations such as illicit discharge detection and elimination, construction, and pollution prevention and good housekeeping. The training program will ensure proper illicit discharge and illicit connection identification, reporting and response. The construction training program will ensure that Permittee staff responsible for construction storm water program implementation receive adequate training. Additionally, the Permittee must develop educational materials and training for construction site operators to ensure program compliance. Construction operators must be educated about site requirements for control measures, local storm water requirements, enforcement activities, and penalties for non-compliance. Permittee staff training in pollution prevention/good housekeeping will ensure the incorporation of pollution prevention/good housekeeping techniques into Permittee operations.

A comprehensive and cohesive outreach and education program will likely be effective and well-coordinated if it involves the public, storm water program staff, and construction site operators.

This Order includes a list of potential residential and commercial pollution sources, but the Permittee may also identify other sources that contribute significant

¹⁶ A variation of social marketing, referred to as CBSM by Canadian environmental psychologist Doug McKenzie-Mohr.

pollutant loads to the MS4. The Order identifies specific pollutant generating activities that must be addressed, including organized car washes, mobile cleaning and power washing operations, and landscape over-irrigation.

The Permittee is encouraged to use existing public educational materials in its program. The Permittee is also encouraged to leverage resources with other agencies and municipalities with similar public education goals.

In addition, this Order requires storm water education for school-age children. The Permittee is encouraged to use California's Education and Environment Initiative Curriculum (EEI)¹⁷ or equivalent. California's landmark EEI Curriculum is a national model designed to help prepare today's students to become future scientists, economists, and green technology leaders.

The K-12th grade curriculum is comprised of 85 units teaching select Science and History-Social Science academic standards. Each EEI Curriculum unit teaches these standards to mastery using a unique set of California Environmental Principles and Concepts. The EEI curriculum was created to bring education about the environment into the primary and secondary classrooms of more than 1,000 school districts serving over 6 million students throughout California. Classroom education plays an integral role in any storm water pollution outreach program. Providing storm water education through schools conveys the message not only to students but to their parents. Permittees should partner with educators and experts to develop storm water-related programs for the classroom. These lessons need not be elaborate or expensive to be effective.

The Permittees' role is to support a school district's storm water education efforts, not to dictate what programs and materials the school should use. Permittees should work with school officials to identify their needs. For example, if the schools request storm water outreach materials, Permittees can provide a range of educational aids, from simple photocopied handouts, overheads, posters and slide shows, to more costly and elaborate working models and displays.

The principal goal of any public education and outreach effort is to change awareness and knowledge. The advanced level public education and outreach effort goes a step further in pursuit of changing behavior. The Permittee should develop a process to assess its public education and outreach programs and to determine necessary improvements to raise public awareness and knowledge. The Permittee is encouraged to use a variety of assessment methods to evaluate the effectiveness of different public education activities. The first evaluation assessment must be conducted before the final year of the Permittee's coverage under this permit, before the next permit is issued. Permittees should coordinate their evaluation assessment with other Permittees on a regional level to determine how best to get the regional message out and how to facilitate awareness, knowledge and ultimately, behavior changes.

¹⁷ <http://www.californiaeei.org/>

Public Involvement/Participation

Legal Authority: Clean Water Act § 40 CFR 122.34(b)(1),(2).

Storm water management programs can be greatly improved by involving the community throughout the entire process of developing and implementing the program. Involving the public benefits both the Permittee as well as the community. By listening to public concerns and coming up with solutions together, the Permittee stands to gain public support and the community should become invested in the program. The Permittees will likewise gain more insight into the most effective ways to communicate their messages.

This Order requires the development of a public involvement strategy, which may include a citizen advisory group or process to solicit feedback on the storm water program, and opportunities for citizens to participate in implementation of the storm water program. If a citizen advisory group is developed, the group should meet with the local land use planners and provide input on land use code or ordinance updates so that land use requirements incorporate provisions for better management of storm water runoff and watershed protection. Public participation in implementation of the storm water program can include many different activities such as stream clean-ups, storm drain markings, volunteer monitoring, and participation in integrated regional water management and watershed planning efforts.

Permittees are encouraged to work together with other entities that have an impact on storm water (for example, schools, homeowner associations, Department of Transportation agencies, other MS4s). Permittees are also encouraged to work through existing advisory groups, community groups or processes in order to implement these public involvement requirements.

Illicit Discharge Detection and Elimination

Legal Authority: Clean Water Act § 40 CFR 122.26(d)(2)(iv)(B)).

Studies have shown that dry weather flows from the storm drain system may contribute a larger amount of some pollutants than wet weather storm water flows.¹⁸ Detecting and eliminating these illicit discharges involves complex detective work, which makes it hard to establish a rigid prescription to identify and correct all illicit connections. There is no single approach to take, but rather a variety of ways to get from detection to elimination. Local knowledge and available resources can play significant roles in determining which path to take. At the very least, communities need to systematically understand and characterize their stream, conveyance, and storm sewer infrastructure systems. Illicit discharges need to be identified and eliminated. The process is ongoing and the effectiveness of a program should improve with time. A well-coordinated IDDE programs can

¹⁸ Evaluation of Non-Storm water Discharges to California Storm Drains and Potential Policies for Effective Prohibition. California Regional Water Quality Control Board. Los Angeles, CA., Duke, L.R. 1997., Results of the Nationwide Urban Runoff Program. Water Planning Division, PB 84-185552, Washington, D.C. U.S. EPA. 1983.

benefit from and contribute to other community-wide water resources-based programs such as public education, storm water management, stream restoration, and pollution prevention.¹⁹

This Order requires the Permittees to address illicit discharges into the MS4. An illicit discharge is defined as any discharge to a municipal separate storm sewer system that is not composed entirely of storm water, except allowable discharges pursuant to an NPDES permit (40 CFR 122.26(b)(2)).²⁰ This Order includes requirements that the Permittee have the legal authority to prohibit non-storm water discharges from entering storm sewers as well as provisions requiring the development of a comprehensive, proactive IDDE program.

The Permittee shall provide a mechanism for public reporting of illicit discharges and spills. A once per permit term survey of outfalls will identify outfalls needing sampling and possible follow-up actions.

Construction Site Storm Water Runoff Control

Legal Authority: Clean Water Act § 40 CFR 122.34(b)(4).

Permittees must implement a construction site storm water runoff management program that includes an enforceable ordinance or other regulatory mechanism with commonly understood and legally binding definitions. These terms should be defined consistently across other related guidance and regulatory documents.

The Permittee must ensure that construction site operators select and implement appropriate construction site storm water runoff management measures to reduce or eliminate impacts to receiving waters. The Permittee is required to utilize California Stormwater Quality Association's (CASQA) Construction BMP handbook or equivalent to help guide their Construction Program.

The Permittee must establish review procedures for construction site plans to determine potential water quality impacts and ensure the proposed controls are adequate. These procedures should include a review of individual pre-construction site plans to ensure consistency with local sediment and erosion control requirements. In addition, the Permittee conducts inspection and enforcement of erosion and sediment control measures once construction begins. The Permittees' Municipal Inspectors must be trained and qualified pursuant to the State Water Board sponsored Qualified Storm Water Pollution Prevention Plan (SWPPP) Practitioner (QSP) certification program.

Pollution Prevention/Good Housekeeping for Permittee Operations

Legal Authority: Clean Water Act § 40 CFR 122.34(b)(6)

¹⁹ Illicit Discharge Detection and Elimination A Guidance Manual for Program Development and Technical Assessments, CWP and Pitt, 2006

²⁰ Non-point source return flows from irrigated agriculture are not considered illicit discharges.

Permittees are required to develop a program to:

- a. Prevent or reduce the amount of storm water pollution generated by permittee operations.
- b. Train employees on how to incorporate pollution prevention/good housekeeping techniques into permittee operations.
- c. Identify appropriate control measures and measurable goals for preventing or reducing the amount of storm water pollution generated by permittee operations.

Permittees must first assess the areas and municipal facilities that it controls, determine which activities may currently have a negative impact on water quality, and find solutions for any problems. The simplest solution is to limit the number of activities that are conducted outside and exposed to storm water.

Storm Drain System Maintenance

Storm drain systems need maintenance to ensure that structures within the storm drain system that are meant to reduce pollutants do not become sources of pollution. Maintenance of catch basins and storm sewers will prevent the accumulation of pollutants that are later released during rain events as well as blockages, backups, and flooding. Most Permittees have an existing program to maintain the storm sewer infrastructure. Some of these programs have tended to focus on flood control and complaint response rather than reducing water quality impacts from storm water discharges.

This Order requires that the system be maintained to prevent the discharge of pollutants into receiving waters. To achieve this, the storm sewer system must be mapped and a program of regular maintenance established. The Permittee must establish a tiered maintenance schedule for the entire storm sewer system area, with the highest priority areas being maintained at the greatest frequency. Priorities are driven by water quality concerns and can be based on the land use within the watershed, the condition of the receiving water, the amount and type of material that typically accumulates in an area, or other location-specific factors. The Permittee also must use spill and illicit discharge data to track areas that may require immediate sewer infrastructure maintenance. Any waste that is collected must be disposed of in a responsible manner.

All storm sewer system maintenance procedures should be documented in the Permittee's standard operating procedures (SOPs) or similar type of documents. All staff should be trained on these SOPs. Maintenance activities should be documented and, where possible, quantified (e.g., number and location of inspections and clean-outs, type and quantity of materials removed). Characterization of the quantity, location, and composition of pollutants removed from catch basins can be used to assess the program's overall effectiveness,

identify illicit discharges, and help the Permittee better prioritize implementation activities in the future.

Pollutant Generating Activities

This Order contains specific requirements and recommendations related to pollutant-generating activities such as discouraging conventional landscaping practices (including the application of pesticides, herbicides, and fertilizer) and operating and maintaining public streets.

Resource-sensitive landscaping practices such as integrated pest management (IPM), climate appropriate plant selection and irrigation, and mechanical (non-chemical) removal of unwanted plants are required under this Order. The use of other landscaping practices, such as mulch and compost, minimizing chemical inputs (pesticides, herbicides, and fertilizer), emphasis on maintaining and enhancing soil quality, and erosion control is required. The Order recognizes the storm water quality benefits that will likely result from implementation of the Water Efficient Landscape Ordinance required under AB 1881.

Flood Management Projects

The Order requires that water quality be considered when designing new and upgraded flood management projects. The focus of storm water management in the past has been to control flooding and mitigate property damage, with less emphasis on water quality protection. These structures may handle a significant amount of storm water and therefore offer an opportunity to modify their design to include water quality features for less than the cost of building new controls. This requirement applies to new and upgraded flood control projects.

Municipally-owned or operated facilities

Municipally-owned or operated facilities often serve as the focal point of activity for municipal staff from different departments. Some municipalities have one facility at which all activities take place (e.g., the municipal maintenance yard), while others may have several specialized facilities. A comprehensive inventory and map of facilities will help Permittee staff build a better awareness of facility locations within the MS4 and their potential to contribute storm water pollutants. The facility inventory will also serve as a basis for scheduling periodic facility assessments and developing, where necessary, facility storm water pollution prevention plans.

The best way to avoid pollutant discharges is to keep precipitation and runoff from coming into contact with potential pollutants. For example, the Permittee should cover or build berms around stockpiles, create dedicated structures for stored materials, and maintain a minimum distance between stockpiles and storm water infrastructure and receiving waters.

Inspections

This Order requires comprehensive quarterly site inspections which is an appropriate frequency to ensure that material stockpiles that might be moved or utilized on a seasonal basis are protected from precipitation and runoff. Also,

quarterly inspections will allow inspectors to observe different types of operations that occur at different times of the year (e.g., landscape maintenance crews are less active in the winter). Quarterly visual observations are required so that inspectors can see in real time the qualitative nature of the storm water discharge so that corrective action can be taken where necessary to improve on-site storm water controls.

This Order also specifies documentation requirements of inspection procedures and results, including inspection logs for each facility to ensure that the site inspections are consistent and that maintenance of storm water controls remains part of the municipality's standard operating procedures. The requirement for an inspection log will allow the Regional Water Boards to verify that periodic site inspections have been performed.

Storm Sewer System Maintenance

Fine particles and pollutants from run-off, run-on, atmospheric deposition, vehicle emissions, breakup of street surface materials, littering, and sanding (for improving traction in snow and ice) can accumulate in the gutters between rainfall events. Storm drain maintenance is often the last opportunity to remove pollutants before they enter the environment. Because storm drain systems effectively trap solids, they need to be cleaned periodically to prevent those materials from being picked up during high flow storm events.

Some catch basins will accumulate pollutants faster than others due to the nature of the drainage area and whether controls are present upstream of the catch basin. A priority ranking system is required for catch basins so that municipal resources are directed to the areas and structures that generate the most pollutants. Catch basins with the highest accumulations will need to be cleaned more frequently than those with low accumulations. The Order also includes a requirement that triggers catch basin cleaning when a catch basin is one-third full.

Proper storm drain system cleanout includes vacuuming or manually removing debris from catch basins; vacuuming or flushing pipes to increase capacity and remove clogs; removing sediment, debris, and overgrown vegetation from open channels; and repairing structures to ensure the integrity of the drainage system. It is important to conduct regular inspections of all storm sewer infrastructure and perform maintenance as necessary. Though these activities are intended to ensure that the storm drain system is properly maintained and that any accumulated pollutants are removed prior to discharge, if not properly executed, cleanout activities can result in pollutant discharges. The Permittee should carefully evaluate maintenance practices to minimize unintended pollutant discharges, such as flushing storm drains without capturing the discharge.

Materials removed from catch basins must not be allowed to reenter the MS4. If necessary, the material can be dewatered in a contained area and the water treated with an appropriate and approved control measure or discharged to the sanitary sewer. The solid material must be disposed of properly to avoid discharge

during a storm event. Some materials removed from storm drains and open channels may require special handling and disposal, and may not be suitable for disposal in a landfill.

Green waste on the streets

For some Traditional MS4 Permittees, residents are allowed to deposit non-containerized green waste (lawn and garden clippings) onto the street for weekly collection by the municipal staff. Permittees instruct residents to put the green waste out right before collection and to avoid putting it in gutters or near storm drains. However, green waste on the street is a potential illicit discharge and maintenance concern.²¹ This Order prohibits green waste on the streets. Permittees must find additional ways to educate residents on the potential problems this practice can cause or to find alternatives to the current practice.

Street Sweeping and Cleaning Streets

Street sweeping and cleaning streets and parking lots is a practice that most municipalities initially conducted for aesthetic purposes or air quality benefit. However, the water quality benefits are now widely recognized. As a result, many California MS4 permits require some sort of street sweeping provision that require the MS4 to prioritize streets as high, medium, and low pollutant-generators and base the cleaning schedule appropriately.

This Order does not include street sweeping and cleaning streets as a permit requirement because MS4s already conduct these activities for aesthetics and air quality benefit. Permittees should count street sweeping not as a storm water compliance cost, but an aesthetic and air quality cost.

Third-party contractors

Third-party contractors conducting municipal maintenance activities must be held to the same standards as the Permittee. These expectations are required to be defined in contracts between the Permittee and its contractors; however, the Permittee is responsible for ensuring, through contractually-required documentation or periodic site visits, that contractors are using storm water controls and following standard operating procedures.

Post Construction Storm Water Management for New Development and Re-development

Legal Authority: Clean Water Act § 40 CFR 122.34(b)(5).

In California, urban storm water is listed as the primary source of impairment for ten percent of all rivers, ten percent of all lakes and reservoirs, and 17 percent of all estuaries (2010 Integrated Report). Although these numbers may seem low, urban areas cover just six percent of the land mass of California²², and so their influence is disproportionately large. Urbanization causes a number of changes in the

²¹ Program Evaluation Report, Sacramento Area Stormwater Program, NPDES Permit No. CA0082597, May 21, 2002, USEPA and Tetra Tech Inc.

²² U.S. Department of Agriculture, 2009

landscape, including increased loads of chemical pollutants; increased toxicity; changes to flow magnitude, frequency, and seasonality of various discharges; physical changes to stream, lake, or wetland habitats; changes in the energy dynamics of food webs, sunlight, and temperature; and biotic interactions between native and exotic species.²³ These impacts are also referred to as “urban stream syndrome”²⁴. In addition to surface water impacts, urbanization can alter the amount and quality of storm water that infiltrates and recharges groundwater aquifers. Figure 1 shows the complex and often interrelated relationship between physical and ecological processes and landscape response.

In California and the rest of the United States, the challenge to storm water managers and regulators has been to establish goals and performance standards that account for the highly variable nature of urban flow and pollutant inputs while ensuring that the ultimate biological response is within “acceptable” limits. The Surface Water Ambient Monitoring Program (SWAMP) is attempting to define biological responses through their Biological Objectives Development Process. Although preliminary results from this effort are not yet available, linking urbanization drivers to biological response represents the next phase in storm water management and cannot be delayed.²⁵

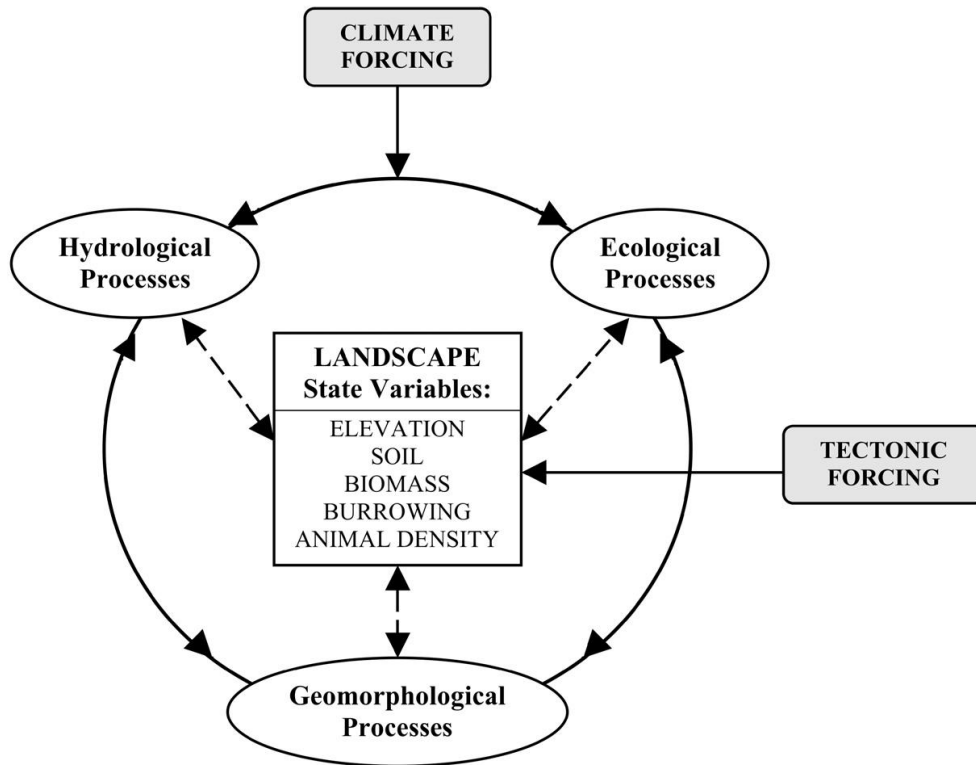
Figure 1 – Conceptual Model of physical and ecological processes and landscape evolution²⁶

²³ Urban Storm Water Management in the United States, National Research Council, 2008.

²⁴ Walsh, C.J., A.H.Roy, J.W. Feminella, P.D. Cottingham, P.M. Groffman, and R.P. Morgan. 2005. The urban stream syndrome: current knowledge and the search for a cure. *J. N. Am. Benthol. Soc.* 24(3):706–723.

²⁵ Urban Storm Water Management in the United States, National Research Council, 2008.

²⁶ Istanbuluoglu, E. 2009. An Eco-hydro-geomorphic Perspective to Modeling the Role of Climate in Catchment Evolution. *Geography Compass* 3/3: 1151-1175



The existing General Permit requires post-construction controls for areas of high growth or areas with a population greater than 50,000. These requirements are contained in Attachment 4 of Order 2003-0005-DWQ and include matching pre-development peak discharge rates, conserving natural areas, minimizing storm water pollutants of concern, protecting slopes and channels, and designing volumetric and flow through treatment measures to handle a specific volume or flow rate. These requirements represented an initial attempt at establishing performance standards that account for hydrological and geomorphological processes (Figure 1). Recent research has yielded new information on complex watershed process interactions. For example, storm water management techniques that are intended to mimic natural hydrologic functions (e.g., low impact development) can protect key hydrologic processes such as surface and base flow, and groundwater recharge. Additionally, there is increasing awareness that, while site-based requirements are important to reduce impacts from urbanization, a site-based approach alone is unable to achieve a broader set of watershed goals, especially given the State Water Board's interest in regional issues such as water reuse, groundwater management, and maintaining instream flows. Consequently, a better understanding of watershed conditions and processes has become increasingly important in the development of MS4 permits. A watershed process-based approach is being used in the Central Coast Joint Effort and is recognized in this Order.

This Order has specific LID requirements for all projects, and hydromodification requirements for projects that create an acre or more of impervious surface. The LID requirements emphasize landscape-based site design features that are already

required elsewhere (e.g., the California Water Efficient Landscape Ordinance). The hydromodification requirements are based on matching a specific peak flow, an approach commonly implemented in flood management. The peak flow matching standard is protective of stream channels because all projects are required to reduce runoff volume through implementation of LID, resulting in post-project volumes that mimic pre-project conditions. The Regional Boards have the opportunity to prescribe criteria that are more protective than those in the Order to protect the watershed processes identified in specific Watershed Management Zones (WMZs) ²⁷.

Water Quality Monitoring Requirements

The existing General Permit included requirements meant to eliminate or reduce the discharge of pollutants to receiving waters. Improved knowledge of the water quality impacts and management practices, obtained either as part of the permit requirements or from outside sources (e.g., scientific literature, studies, and expert panels), is intended to be used in an adaptive management fashion to inform requirements in subsequent permits. As such, monitoring and assessment represents a critical component in understanding the link between permit requirements, the benefits achieved due to those requirements, and the condition of receiving waters. Aside from general knowledge that storm water discharges from urbanized watersheds contribute pollutants to receiving waters, little is known about the specific conditions in such receiving waters outside of major metropolitan areas. The effectiveness of almost a decade of storm water management in Phase I MS4s has not been systematically evaluated through receiving water monitoring. Nationwide, there are few of analyses of available data and guidance on how Permittees should be using the data to inform their storm water management decisions²⁸.

This Order prioritizes monitoring for ASBS, TMDLs, and 303d listed waterbodies. Permittees that have a population of 50,000 or greater and are part of an urbanized area are required to choose from a number of monitoring options. These larger Permittees are assumed to have the resources to undertake monitoring.

Program Effectiveness Assessment

Legal Authority: Clean Water Act § 40 CFR 122.34(g)

This Order requires a quantitative evaluation of the Permittees MS4 programs. Measurable program evaluations are critical to the development, implementation, and adaptation of effective local storm water management programs. To date, only a small number of Phase I MS4s have provided measurable outcomes with regard to aggregate pollutant reduction achieved by their municipal storm water programs. Most Permittees, both Phase I and II, are struggling simply

²⁷ A Watershed Management Zone (WMZ) is a combination of a Physical Landscape Zone (PLZ, based on surficial geology and slope) and direct receiving water type. Key watershed processes potentially impacted by urbanization (e.g., infiltration and groundwater recharge) are derived from each PLZ-receiving water combination.

²⁸ Urban Storm Water in the United States, National Research Council, 2008

to organize or document their program activities and few have provided a quantitative link between program activities and water quality improvements. The few that have determined whether or not water quality is improving as a result of storm water program implementation took many years. Despite these past obstacles, the process of evaluating and understanding the relationship between the storm water program implementation and water quality needs to begin now. Consistent with this interest, this Order implements two new elements: BMP Performance and Municipal Baseline Characterization, which are described below:

Post-Construction BMP Condition Assessment and Municipal Watershed Pollutant Load Quantification Nexus

Permittees must understand how their actions reduce the discharge of pollutants to receiving waters. This is accomplished through an assessment of the performance of the Permittees BMPs, especially structural practices designed for specific pollutant/flow reductions. Only Renewal Permittees were required to install structural post-construction BMPs in the existing permit term. However, during MS4 audits by State and Regional Water Board staff, many of those BMP locations were unknown and not maintained causing water quality threats. In this Order, only Renewal Permittees are asked to implement a plan that contains simple and repeatable field observation and data management tools that can assist them in determining the relative condition of BMPs. The primary purpose is to inform Permittees of: 1) where the BMPs are located, 2) the relative urgency of water quality maintenance and, 3) provide a practical, consistent and reliable tool to track the condition of BMPs relative to observed condition at time of installation or immediately following complete maintenance. Permittees may implement this plan themselves or may be determined through a Self-Certification Annual Report submitted annually by an authorized party demonstrating proper maintenance and operations. Allowing an authorized party to conduct the BMP condition assessment offsets program costs and shifts responsibility to the party that should be maintaining the BMP they initially installed.

By assessing the information gained from Self-Certification Annual Reports, the Permittees can link estimated load reduction to the performance of existing BMPs and target monitoring for emerging BMPs. Some flexibility is needed in the choice of which BMPs to monitor so that each Permittee can focus on prioritized information needs that in turn, can inform local actions.

Annual Reporting

This Order requires the preparation of an Annual Report based on specific permit provisions. Lessons learned from Phase I MS4 annual reports is that many Permittees tend to send too much information, and, as a result, Regional Water Boards receive large binders full of materials that do not provide useful information to assess compliance. The Annual Report will not be submitted via SMARTS but shall be made available at the request of the Regional Boards. The Permittee shall

use SMARTS to certify Annual Reports which verifies compliance with all requirements of the General Permit.

XIII. TOTAL MAXIMUM DAILY LOAD (TMDL)

Section 303(d) of the Clean Water Act requires States to identify waters that do not meet water quality standards after applying certain required technology-based effluent limitations ("impaired" waterbodies). States are required to compile this information in a list and submit the list to the U.S. EPA for review and approval. This list is known as the Section 303(d) list of impaired waters, which is incorporated into the Integrated Report.

This listing process requires States to prioritize waters/watersheds for future development of TMDLs. A TMDL is defined as the sum of the individual waste load allocations for point sources of pollution, plus the load allocations for nonpoint sources of pollution, plus the contribution from background sources of pollution. The Water Boards have ongoing efforts to monitor and assess water quality, to prepare the Section 303(d) list, and to subsequently develop TMDLs. The 2010 California 303(d) List identifies impaired receiving water bodies and their watersheds within the state.

TMDLs are developed by either the Regional Water Boards or U.S. EPA in response to Section 303(d) listings. Regional Water Board-developed TMDLs are subject to approval by the State Water Board, approval by the Office of Administrative Law, and ultimately approval by U.S. EPA. TMDLs developed by Regional Water Boards are incorporated as Basin Plan amendments and include implementation provisions. TMDLs developed by U.S. EPA typically contain the total load and waste load allocations required by Section 303(d), but do not contain comprehensive implementation provisions.

TMDLs are not self-implementing but rely on other regulatory mechanisms for implementation and enforcement. Urbanized areas typically utilize municipal storm water permits as the implementation tool. Incorporation of TMDL implementation requirements into general permits (as opposed to individual MS4 permits) is difficult. First, there are numerous Traditional MS4s (municipalities) and of Non-traditional MS4s such as military bases, public campuses, prison and hospital complexes covered under this Order. Second, the waste load allocations for many TMDLs are shared among several dischargers; that is, a single waste load allocation may be assigned to multiple dischargers, making it difficult to assign responsibility. Further, individual dischargers may not be explicitly identified. For example, "urban runoff" may be listed as a source of impairment, but the individual municipalities responsible for the impairment may not be identified. Third, the implementation plans adopted by the Regional Water Boards often provide for phased compliance with multiple milestones and deliverables, with optional and alternative means of compliance depending on the results of monitoring and special studies.

The high variance in the level of detail and specificity of TMDLs necessitates the development of more specific permit requirements in many cases to provide clarity to the Permittees regarding responsibilities for compliance. The Regional Water Boards have submitted TMDL-specific permit requirements to the State Water Board for applicable TMDLs, along with statements explaining how the requirements are designed to achieve the goals of the TMDLs (see the following discussions specific to each Regional Water Board).

Certain Regional Water Boards did not include statements explaining how the requirements are designed to achieve the goals of the TMDLs. We expect Regional Water Boards to include statements during the second draft Order 60-day public comment period.

This Order includes Attachment G, which identifies those approved TMDLs in which storm water or urban run-off is listed as a source. Attachment G then identifies municipalities subject to a given TMDL or assigned a waste load allocation under that TMDL. Finally, Attachment G includes TMDL-specific permit requirements developed by the Regional Water Boards for compliance with the TMDL, making the requirements directly enforceable through the permit.

Because the Permittees have not had an opportunity to meet with Regional Water Board staff to review and discuss the TMDL-specific permit requirements incorporated into this permit, the Regional Water Boards are additionally being directed through this Order to review the TMDL-specific permit requirements of Attachment G in consultation with the Permittees and propose any revisions to the State Water Board within six months of the effective date of this Order. Any such revisions will be incorporated into the permit through a reopener.

Permittees will report compliance with the specific TMDL permit requirements in the online Annual Report via SMARTS.

Central Valley Water Board TMDLs

Delta Methylmercury TMDL

On April 22, 2010, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) adopted Resolution No. R5-2010-0043 to amend the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (Basin Plan) to include a methylmercury TMDL and an implementation plan for the control of methylmercury and total mercury in the Sacramento-San Joaquin Delta Estuary (Delta Mercury Control Program). The Basin Plan amendment includes the addition of: (1) site-specific numeric fish tissue objectives for methylmercury; (2) the commercial and sport fishing (COMM) beneficial use designation for the Delta and Yolo Bypass; (3) methylmercury load allocations for non-point sources and waste load allocations for point sources; and (4) an implementation plan that includes adaptive management to address mercury and methylmercury in the Delta and Yolo Bypass.

The Delta TMDL covers the Counties of Alameda, Contra Costa, Sacramento, San Joaquin, Solano and Yolo both within legal Delta boundary defined by California Water Code Section 12220 and the Yolo Bypass, a 73,300-acre floodplain on the west side of the lower Sacramento River.

The Delta is on the Clean Water Act Section 303(d) List of Impaired Water Bodies because of elevated levels of mercury in fish. Beneficial uses of the Delta that are impaired due to the elevated methylmercury levels in fish are wildlife habitat (WILD) and human consumption of aquatic organisms. The Delta provides habitat for warm and cold-water species of fish and their associated aquatic communities. Additionally, the Delta and its riparian areas provide valuable wildlife habitat. There is significant use of the Delta for fishing and collection of aquatic organisms for human consumption. Further, water is diverted from the Delta for statewide municipal (MUN) and agricultural (AGR) use.

Mercury in the Central Valley comes primarily from historic mercury and gold mines and from resuspension of contaminated material in stream beds and banks downstream of the mines, as well as from modern sources such as atmospheric deposition from local and global sources, waste water treatment plants, and urban runoff. Methylmercury, the most toxic form of mercury, forms primarily by sulfate reducing bacteria methylating inorganic mercury. Sources of methylmercury include methylmercury flux from sediment in open water and wetland habitats, urban runoff, irrigated agriculture, and waste water treatment plants. Water management activities, including water storage, conveyance, and flood control, can affect the transport of mercury and the production and transport of methylmercury.

The Delta Mercury Control Program assigns mass-based methylmercury TMDL allocations to all sources of methylmercury in the Delta and Yolo Bypass, including urban runoff from Phase 1 and Phase 2 MS4s. In the Delta and Yolo Bypass, the TMDL assigns individual methylmercury waste load allocations to the following small urban runoff agencies:

City of Lathrop
City of Lodi
City of Rio Vista
County of San Joaquin
County of Solano
City of West Sacramento
County of Yolo
City of Tracy

Mercury is often attached to sediment, and the formation of methylmercury is linked in part to the concentration of mercury concentrations in sediment. Reductions in mercury concentrations will result in methylmercury reductions and subsequently methylmercury levels in fish. To comply with the TMDL, the agencies are required to implement best management practices to control erosion and sediment discharges with the goal of reducing mercury discharges.

Central Coast Water Board TMDLs

Morro Bay Sediment TMDL

The numeric targets approved in the TMDL are expressed in terms of receiving water indicators, e.g. pool residual volume, median diameter of spawning graves, etc. The TMDL also expressed the sediment assimilative capacity and allocations required to achieve the numeric targets. The allocations require a 50% reduction of current loading (estimated in 2003) to achieve the numeric targets. The wasteload allocations assigned to the responsible parties in this permit represent a 50% reduction from 2003 loading estimates.

San Lorenzo River Sediment TMDL

The numeric targets approved in the TMDL are expressed in terms of receiving water indicators, e.g. pool residual volume, median diameter of spawning graves, etc. The TMDL also expressed the sediment assimilative capacity and allocations required to achieve the numeric targets. The allocations require reductions of 24-27 percent of current sediment loading (estimated in 2002) to achieve the numeric targets. The wasteload allocations assigned to the responsible parties in this permit represent a 24-27 percent reduction from the 2003 loading estimates.

Pajaro River Sediment TMDL

The numeric targets approved in the TMDL are expressed in terms of receiving water indicators, e.g. pool residual volume, median diameter of spawning graves, etc. The TMDL also expressed the sediment assimilative capacity and allocations required to achieve the numeric targets. The allocations require reductions of 90% from current sediment loading (estimated in 2005) to achieve the numeric targets. The wasteload allocations assigned to the responsible parties in this permit represent a 90% reduction of the 2005 loading estimate.

For All TMDLs Requiring Wasteload Allocation Attainment Programs

In situations where MS4s must reduce their wasteload discharges in accordance with TMDLs, the Central Coast Water Board has required the MS4s to develop Wasteload Allocation Attainment Programs. Since these MS4s have been documented as sources of impairment, they must be held to a high standard to ensure they ultimately achieve their wasteload allocations and no longer contribute to the water body impairments addressed by the TMDLs. Indeed, the TMDLs set forth the expectation that the MS4s achieve their wasteload allocations within specified timeframes. This approach stands in contrast to the typical regulatory approach applied to municipal stormwater, which calls for implementation of BMPs according to an iterative process of continual improvement, with no associated timelines for achieving water quality standards. The MS4s' contribution to the impairment of water bodies, combined with the expectation that they achieve their wasteload allocations within specified timeframes, necessitates a systematic approach to program implementation as it relates to the discharge of pollutants associated with impairments.

The federal regulations indicate that such an approach is appropriate. The Preamble to the Phase II federal storm water regulations states: "Small MS4 permittees should modify their programs if and when available information indicates that water quality considerations warrant greater attention or prescriptiveness in specific components of the municipal program."²⁹

Central Coast Water Board staff developed the Wasteload Allocation Attainment Programs as a means to systematically guide municipalities towards attainment of their wasteload allocations. Without a systematic approach of this type, Water Board staff believes that attainment of wasteload allocations is unlikely. This belief is supported by many MS4s' storm water management programs. For example, programs typically include basic or minimum BMPs to be implemented to attain wasteload allocations. While some of these BMPs are likely to be beneficial, the connection between others and wasteload reductions is unclear. In addition, it appears that most of these BMPs are currently implemented, yet impairments continue, indicating that greater efforts are warranted. Moreover, BMPs implemented by MS4s often do not address all of the issues identified in TMDLs. This insufficient approach to BMP implementation in light of documented impairments and approved TMDLs indicates that a more systematic approach, as represented by the Wasteload Allocation Attainment Programs, is warranted.

On a broader scale, storm water programs often do not exhibit the rationale used for BMP selection, or draw connections between those BMPs selected and eventual wasteload allocation attainment. Without this level of planning, the significant challenge of achieving wasteload allocations within specified timeframes is not likely to be met. The Wasteload Allocation Attainment Program requirements are expressly designed to ensure adequate planning is conducted so that MS4s' TMDL implementation efforts are effective. The main steps to be followed for Wasteload Allocation Attainment Program development and implementation are activities that are basic to successfully correcting water quality problems. The Wasteload Allocation Attainment Program requirements specify that MS4s address the following items as they apply to TMDLs: (1) An implementation and assessment strategy; (2) source identification and prioritization; (3) BMP identification, prioritization, implementation (including schedule), analysis, and assessment; (4) monitoring program development and implementation (including schedule); (5) reporting and evaluation of progress towards achieving wasteload allocations; and (6) coordination with stakeholders. The United States Environmental Protection Agency (U.S. EPA) forwards similar approaches for TMDL implementation in its *Draft TMDLs to Stormwater Permits Handbook*, which discusses BMP review and selection, establishing linkages between BMP implementation and load reductions, effectiveness assessment, and BMP/outfall/receiving water monitoring.³⁰

Ultimately, the Wasteload Allocation Attainment Programs place the responsibility for program development, assessment, improvement, and success on the

²⁹ 64 FR 68753

³⁰ USEPA. 2008. *Draft TMDLs to Stormwater Permits Handbook*. Chapters 5 and 6.

municipalities. Placement of responsibility on the municipalities is appropriate, since the municipalities are the parties contributing to the water quality impairment. This approach is also consistent with the Water Board's approach of requiring plans for control of pollutants from other sources identified by TMDLs, such as sanitary sewer collection and treatment systems and domestic animal discharges. The Water Board will collectively assess the progress of the various sources towards achieving receiving water quality standards as part of its triennial review, but each source must be responsible for assessing its own progress towards achieving its wasteload allocation. Without progress by each responsible party, the Water Board will not be able to demonstrate progress towards correcting the impairment. The process of planning, assessment, and refinement outlined by the Wasteload Allocation Attainment Programs helps ensure continual improvement and ultimate attainment of water quality standards at impaired receiving waters. This will be especially important as the complexity of achieving wasteload allocations increases when more and more TMDLs are adopted.

The Central Coast Water Board staff believes this standardized process of development, implementation, assessment, and review of the Wasteload Allocation Attainment Programs provides the greatest likelihood for the TMDLs' wasteload allocations to be attained.

XIV. STORM WATER MANAGEMENT PROGRAM FOR NON-TRADITIONAL MS4s

Differences between Traditional and Non-traditional MS4s

Because of the differences between Traditional and Non-traditional MS4s this Order includes Section F to address their specific management structure.

Non-Traditional Small MS4s required to comply with this Order are identified in Attachment B.

Non-traditional MS4s differ from cities and counties, because most potential sources of illicit discharges and storm water pollution are associated with activities under their direct operational control.

Some Non-traditional MS4s may also lack the legal authority or employ a different type of enforcement mechanism than a city/county government to implement their storm water program.

Certain Non-traditional Small MS4s such as Department of Defense and Department of Corrections and Rehabilitation Permittees required exemption from certain provisions due to security risks and/or compromised facility security.

Program Management – Applicable to all Non-traditional MS4 Categories

Legal Authority: Clean Water Act § 40 CFR 122.26(d)(2)(i) and 40 CFR 122.34(b)(3)(ii)(B), (b)(4)(ii)(A), and (b)(5)(ii)(B).

Program Management

Program Management is essential to ensure that all elements of the storm water program are implemented on schedule and consistent with the Order requirements. See Online Annual Reporting for further discussion later in this section.

Legal Authority

Legal authority to control discharges into a Permittee's storm sewer system is critical for compliance. Most Non-traditional MS4s lack the legal authority or employ a different type of enforcement mechanism than a city or county government to implement its storm water program. To the extent allowable under State and federal law, this Order requires each Non-traditional MS4 to operate with sufficient legal authority to control discharges into and from its MS4. The legal authority may be demonstrated by a combination of statutes, permits, contracts, orders, and interagency agreements. Non-traditional MS4 Permittees also do not generally have the authority to impose a monetary penalty. Although these differences exist, just like Traditional MS4s, Non-traditional MS4s must have the legal authority to develop, implement, and enforce the program.

Coordination

This Order allows Non-traditional MS4s to coordinate their storm water programs with other entities within or adjacent to their MS4 and allows the concept of a

Separate Implementing Entity. A Separate Implementing Entity allows Permittees to leverage resources and skills. Additional information regarding SIEs is discussed later in this section.

Education and Outreach Program

Legal Authority: Clean Water Act § 40 CFR 122.34(b)(1).

Because the population served by most Non-traditional MS4s will generally be served by the public education and outreach efforts of the local jurisdiction, the most useful supplement to those education and outreach efforts would be to label the Non-traditional MS4 catch basins. However, some Non-traditional MS4s such as universities have tenants and residents that may not be as effectively served by the local jurisdiction's public education and outreach program, therefore a separate education and outreach program may be needed. Where the local jurisdiction's public education and outreach efforts do effectively target and reach these tenant and resident populations, the Non-traditional MS4s are not expected to duplicate those efforts.

Some Non-traditional MS4s are well suited for regional education and outreach. For example, school districts often have several schools located with a watershed or regional boundary. This Order allows Non-traditional MS4s to comply with the Education and Outreach provisions through a regional collaborative effort.

Regional outreach and collaboration requires the Permittees to define a uniform and consistent message, deciding how best to communicate the message, and how to facilitate behavioral changes.

Public Involvement and Participation

Legal Authority: Clean Water Act § 40 CFR 122.34(b)(2)).

Non-traditional MS4s have the same responsibilities as Traditional MS4s to ensure the storm water program is publicized and must involve the population they serve in the development of the program. However, the most effective BMP for Non-traditional MS4s is to provide up-to-date information about the storm water program online if the Non-traditional MS4 maintains a website, or the Non-traditional MS4 Permittee may choose to post information about their program on the local jurisdiction's website.

Illicit Discharge Detection and Elimination Program

Legal Authority: Clean Water Act § 40 CFR 122.26(d)(2)(iv)(B)

The federal Phase II regulations require all MS4s to develop a process to trace the source of illicit discharges and eliminate them. The regulations also state that appropriate enforcement procedures and actions must be included in this process.

Unlike Traditional MS4s, Non-traditional MS4s have direct control of their own staff and contractors. Therefore, the enforcement provisions identified in the Illicit Discharge Detection and Elimination program are often not applicable to Non-traditional MS4 Permittees. Non-traditional MS4 Permittees should address illicit non-storm water discharges through the implementation of a Spill Response Plan. However, Non-traditional MS4 Permittees often comply with existing state/federal regulations that required a Spill Response Plan or Hazardous Materials plan that identifies notification procedures for other operators or local agencies and includes details that are similar if not the same as a Spill Response Plan. Therefore, to leverage resources and maximize efficiencies the requirements in this Order recommend utilizing existing documents if that document contains the same information.

Construction Site Storm Water Runoff Control and Outreach Program

The purpose of this program component is to prevent sediment and other pollutants from entering the Non-traditional MS4 during the construction phase of development projects. In general, Non-traditional MS4 Permittees will obtain coverage under, and comply with, the CGP for their own construction projects. To the extent that they have the legal authority, Non-traditional MS4s must also require other entities discharging to their MS4 to obtain coverage under and comply with the CGP during the construction phase of their projects.

This Order relieves Non-traditional MS4 Permittees from development and implementation of a complete construction storm water runoff control program. This Order does require education and outreach to staff, construction site operators and contractors on how to control construction storm water runoff.

The CGP is inherently a robust permit with stringent reporting requirement for any construction project disturbing one acre or more in California. Often, Non-traditional MS4s have a few construction projects occurring at once such as those in a City or County. There are, however, very few Non-traditional MS4s that have dozens of active construction sites. Further, Non-traditional MS4 Permittees are often both the owner and contractor of a construction project. Finally, municipal governments must review and approve erosion and sediment control plans prior to the issuance of grading permits. Most all Non-traditional MS4s do not require approval from local municipalities prior to construction activity. Conditioning of a construction project is usually conducted in-house by Non-traditional MS4 Permittee staff. If contractors are brought in to conduct construction activity, this Order requires Non-traditional MS4 Permittees to include “bullet proof” contract language ensuring construction operators or contractors comply with the CGP and implement appropriate BMPs.

Pollution Prevention and Good Housekeeping Program

Legal Authority: Clean Water Act § 40 CFR 122.34(b)(6)

Non-traditional MS4s have the same responsibilities as Traditional MS4s to prevent or reduce storm water pollution generated by their own operations, to train employees about pollution prevention/good housekeeping practices, and to identify

appropriate measures to prevent or reduce the amount of storm water generated by their operations.

Total Maximum Daily Load (TMDL)

The Order includes Attachment G, which identifies only those approved TMDLs in which storm water or urban run-off is listed as a source. In addition, Attachment G identifies Permittees subject to TMDLs or assigned waste load allocation. If Non-traditional MS4 Permittees have been identified in Attachment G, they must implement the specific TMDL permit requirements.

Program Effectiveness Assessment

Non-traditional MS4s have the same responsibilities as Traditional MS4s to conduct quantitative evaluation of their storm water program.

Online Annual Reporting

Non-traditional MS4s have the same responsibilities as Traditional MS4s to submit online Annual Reports via SMARTS.

Separate Implementing Entity

Legal Authority: Clean Water Act § 40 CFR 122.35

This Order allows a Regulated MS4s to rely on a Separate Implementing Entity to meet permit requirements, as allowed by U.S. EPA in the Phase II regulations. Reliance on Separate Implementing Entity may be particularly beneficial for Non-Traditional MS4s. An example is a community service district that is charged with creating and implementing a municipal storm water program.

Co-application and cooperative implementation of the storm water program by any Permittee with another Permittee can maximize efficiency and reduce overall costs. Non-traditional MS4s are encouraged to co-apply with local jurisdictions and utilize shared resources to implement the storm water program.

A Permittee may rely on a Separate Implementing Entity to implement one or more program elements, if the Separate Implementing Entity can appropriately and adequately address the storm water issues of the Permittee. To do this, both entities must agree to the arrangement, and the Permittee must comply with the applicable parts of the Separate Implementing Entity's program.

In accordance with 40 Code of Federal Regulations, section 122.35(a)(3), the Permittee remains responsible for compliance with its permit obligations if the Separate Implementing Entity fails to implement the control measure(s) or any component thereof. Therefore, the entities are encouraged to enter into a legally binding agreement to minimize any uncertainty about compliance with the permit.

If the Non-traditional MS4 Permittee relies on a Separate Implementing Entity to implement all program elements and the Separate Implementing Entity also has a storm water permit, the Permittee relying on Separate Implementing Entity must still

file an NOI via SMARTS, submit the appropriate fee and file online Annual Reports. Both parties must also submit to the appropriate Regional Water Board a certification of the arrangement. The arrangement is subject to the approval of the Regional Water Board Executive Officer prior to filing an electronic NOI via SMARTS.

School districts present an example of where a Separate Implementing Entity arrangement may be appropriate, either by forming an agreement with a city or with an umbrella agency, such as the County Office of Education. Because schools provide a large audience for storm water education the two entities may coordinate an education program. An individual school or a school district may agree to provide a one-hour slot for all second and fifth grade classes during which the city would make its own storm water presentation. Alternatively, the school could agree to teach a lesson in conjunction with an outdoor education science project, which may also incorporate a public involvement component. Additionally, the school and the city or Office of Education may arrange to have the school's maintenance staff attend the other entity's training sessions.

XV. RELATIONSHIP BETWEEN THE ORDER AND THE STATEWIDE GENERAL PERMIT FOR DISCHARGES OF STORM WATER ASSOCIATED WITH INDUSTRIAL ACTIVITY

In some cases, certain Non-traditional MS4s will be subject to both this Order and the IGP.

The intent of both of these permits is to reduce pollutants in storm water, but neither permit's requirements totally encompass the other. This Order requires that Non-traditional MS4 operators address storm water program elements, while the IGP requires the development and implementation of a SWPPP for certain "industrial" activities as well as requiring specific visual and chemical monitoring.

In the Preamble to the Phase II regulations, U.S. EPA notes that for a combination permit to be acceptable, it must contain all of the requirements for each permit. Further, "when viewed in its entirety, a combination permit, which by necessity would need to contain all elements of otherwise separate industrial and MS4 permit requirements, and require NOI information for each separate industrial activity, may have few advantages when compared to obtaining separate MS4 and industrial general permit coverage." Where the permits do overlap, one program may reference the other. More specifically, the Good Housekeeping for Permittee Operations program element requires evaluation of Permittee operations, some of which may be covered under the IGP. The development and implementation of the SWPPP under the IGP will likely satisfy the Good Housekeeping requirements for those industrial activities. The Non-traditional MS4 storm water program may incorporate by reference the appropriate SWPPP.

There may be instances where a Non-traditional MS4 has, under the IGP, obtained coverage for the entire facility (rather than only those areas where industrial activities occur) and has developed a SWPPP that addresses all the program elements required by this Order. In these instances, the Non-traditional MS4 is not required to obtain coverage under this Order. The entity should, in such cases, provide to the appropriate Regional Water Board documentation that its SWPPP addresses all program elements.

XVI. USE OF PARTNERSHIPS IN MS4 PERMITS

Since the Phase II Rule applies to all small MS4s within an urbanized area regardless of political boundaries it is very likely that multiple governments and agencies within a single geographic area are subject to NPDES permitting requirements. For example, a city government that operates a small MS4 within an urbanized area may obtain permit coverage under this Order while other MS4s in the same vicinity (such as a County, other cities, public university, or military facility) may also be covered under this Order. All MS4s are responsible for permit compliance within their jurisdiction.

Given the potential for overlapping activities in close proximity, the State Water Board encourages MS4s in a geographic area to establish cooperative agreements in implementing their storm water programs, especially with receiving water monitoring. Partnerships and agreements between Permittees and/or other agencies can minimize unnecessary duplication of effort and result in efficient use of available resources. Sharing resources can allow MS4s to focus their efforts on high priority program components. By forming partnerships, water quality can be examined and improved on a consolidated, efficient scale rather than on a piecemeal, site-by-site basis.

XVII. REGIONAL BOARD DESIGNATIONS

Designation of additional Small MS4s outside of Urbanized Areas as Regulated Small MS4s may be made by the Regional Water Boards on a case by case basis. Case by case determinations of designation are based on the potential of a Small MS4's discharges to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts. The tables below includes designations recommend by the Regional Water Boards prior to adoption of this Order. The Regional Water Boards may continue to make case by case determinations of designation during the permit term by notification to the discharger which shall include a statement of reasons for the designation.

Traditional Small MS4s

Place name	County	Regional Board	Justification
Crescent City	Del Norte	1	7500 population New urbanized area
Bayview CDP	Humboldt	1	Adjacent to, but outside of Eureka city limits located in southern Humboldt Bay, in unincorporated Humboldt County. Designation of these areas is needed to address pollutant sources of urbanized and urbanizing areas within 303(d) listed watersheds
Cutten CDP	Humboldt	1	Adjacent to, but outside of Eureka city limits located in southern Humboldt Bay, in unincorporated Humboldt County. Designation of this area is needed to address pollutant sources of urbanized and urbanizing areas within 303(d) listed watersheds
Humboldt Hill CDP	Humboldt	1	Adjacent to, but outside of Eureka city limits located in southern Humboldt Bay, in unincorporated Humboldt County. Designation of this area is needed to address pollutant sources of urbanized and urbanizing areas within 303(d) listed watersheds
Myrtletown CDP	Humboldt	1	Adjacent to, but outside of Eureka city limits located in southern Humboldt Bay, in unincorporated Humboldt County. Designation of this area is needed to address pollutant sources of urbanized and urbanizing areas within 303(d) listed watersheds
Pine Hills CDP	Humboldt	1	Adjacent to, but outside of Eureka city limits located in southern Humboldt Bay, in unincorporated Humboldt County. Designation of this area is needed to address pollutant sources of urbanized and urbanizing areas within 303(d) listed watersheds
Ridgewood Heights USSA	Humboldt	1	Adjacent to, but outside of Eureka city limits located in southern Humboldt Bay, in unincorporated Humboldt County. Designation of these areas is needed to address pollutant sources of urbanized and urbanizing areas within 303(d) listed watersheds
Rosewood USSA	Humboldt	1	Adjacent to, but outside of Eureka city limits located in southern Humboldt Bay, in unincorporated Humboldt County. Designation of this area is needed to address pollutant sources of urbanized and urbanizing areas within 303(d) listed watersheds

Cloverdale CDP	Sonoma	1	There are urbanized areas within the County of Sonoma not covered under the Phase I Permit. These areas are located within the Russian River watershed, a 303(d) listed watershed. Currently, there is only limited storm water management in these areas, allowing the discharge of pollutants to the impacted water body. Storm water management is needed in these areas to reduce the pollutant loads and for early TMDL implementation
Forestville CDP	Sonoma	1	There are urbanized areas within the County of Sonoma not covered under the Phase I Permit. These areas are located within the Russian River watershed, a 303(d) listed watershed. Currently, there is only limited storm water management in these areas, allowing the discharge of pollutants to the impacted water body. Storm water management is needed in these areas to reduce the pollutant loads and for early TMDL implementation
Guerneville CDP	Sonoma	1	There are urbanized areas within the County of Sonoma not covered under the Phase I Permit. These areas are located within the Russian River watershed, a 303(d) listed watershed. Currently, there is only limited storm water management in these areas, allowing the discharge of pollutants to the impacted water body. Storm water management is needed in these areas to reduce the pollutant loads and for early TMDL implementation
Monte Rio	Sonoma	1	There are urbanized areas within the County of Sonoma not covered under the Phase I Permit. These areas are located within the Russian River watershed, a 303(d) listed watershed. Currently, there is only limited storm water management in these areas, allowing the discharge of pollutants to the impacted water body. Storm water management is needed in these areas to reduce the pollutant loads and for early TMDL implementation
Occidental CDP	Sonoma	1	There are urbanized areas within the County of Sonoma not covered under the Phase I Permit. These areas are located within the Russian River watershed, a 303(d) listed watershed. Currently, there is only limited storm water management in these areas, allowing the discharge of pollutants to the impacted water body. Storm water management is needed in these areas to reduce the pollutant loads and for early TMDL implementation
Yreka City	Siskiyou	1	Discharges to a TMDL listed waterbody and identified on Attachment G
Gonzalez City	Monterey	3	Greater than 5,000 population
Moss Landing CDP	Monterey	3	Proximity to ocean areas (Monterey Bay National Marine Sanctuary, including Elkhorn slough)

Blacklake CDP	San Luis Obispo	3	Proximity to urbanized area (Oceano, Arroyo Grande, Grover Beach and Nipomo)
Cayucos CDP	San Luis Obispo	3	Greater than 2,000 population and proximity to Pacific Ocean
Lake Nacimiento CDP	San Luis Obispo	3	Greater than 2,000 population and proximity to Lake Nacimiento (drinking water source)
San Miguel	San Luis Obispo	3	Greater than 2,000 population High Growth Rate (16.8%)
Shandon CDP	San Luis Obispo	3	High Growth Rate (31.3%)
Guadalupe City	Santa Barbara	3	Incorporated area exceeding 5,000 population
Hope Ranch CDP	Santa Barbara	3	Proximity to urbanized area
Mission Canyon CDP	Santa Barbara	3	Proximity to urbanized area
Mission Hills CDP	Santa Barbara	3	Proximity to urbanized area

Toro Canyon CDP	Santa Barbara	3	Proximity to urbanized area
Live Oak CDP	Santa Cruz	3	Greater than 5,000 population Discharges to a TMDL listed waterbody and identified on Attachment G
Colusa County	Colusa	5s	Discharges to a TMDL listed waterbody and identified on Attachment G

Non-Traditional Small MS4s

Place name	Category	Regional Board	Justification
Santa Rosa Junior College	Community College	1	Urbanized area interconnected storm drain system
AMTRAK	Special District	2	Within urbanized area
Bay Area Rapid Transit	Special District	2	Within urbanized area
CalTrain	Special District	2	Within urbanized area
Golden Gate Bridge, Highway and Transportation District	Special District	2	Within urbanized area
Oceano Community Services District	Community Services District	3	Within urbanized area
Templeton Community Services District	Community Services District	3	Within urbanized area
Monterey County Water Resources Agency	County Water Agency	3	Within urbanized area
Fort Ord Reuse Authority	Local Agency	3	Adjacent to urbanized area, Planned annexation into urbanized area